

CS/SB 194 by **AG, Latvala**; (Identical to CS/H 0047) Spiny Lobster

SB 296 by **Brandes**; (Identical to H 0209) Carrying a Concealed Weapon or a Concealed Firearm

270946 A S RCS CJ, Evers Delete L.25: 03/03 07:13 PM

CS/SB 326 by **JU, Thompson**; (Similar to H 0227) Victims of Wrongful Incarceration

SB 328 by **Joyner (CO-INTRODUCERS) Clemens**; (Identical to H 0247) Trafficking in Illegal Drugs

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SB 780 by **Bradley**; (Similar to CS/H 0697) Controlled Substances

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SB 978 by **Evers (CO-INTRODUCERS) Galvano, Grimsley**; (Identical to H 0841) Crime Stoppers Trust Fund

SB 1060 by **Evers**; (Similar to H 7029) Code of Student Conduct

SPB 7030 by **CJ**; Community Reentry Programs

SPB 7048 by **CJ**; Renaming the Parole Commission

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CRIMINAL JUSTICE
Senator Evers, Chair
Senator Smith, Vice Chair

MEETING DATE: Monday, March 3, 2014**TIME:** 4:00 —6:00 p.m.**PLACE:** Mallory Horne Committee Room, 37 Senate Office Building**MEMBERS:** Senator Evers, Chair; Senator Smith, Vice Chair; Senators Altman, Bradley, Dean, Gibson, and Simmons

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 194 Agriculture / Latvala (Identical CS/H 47)	Spiny Lobster; Providing penalties for certain violations relating to possession of spiny lobster, etc. AG 01/13/2014 Fav/CS EP 02/05/2014 Favorable CJ 03/03/2014 Favorable	Favorable Yeas 6 Nays 0
2	SB 296 Brandes (Identical H 209)	Carrying a Concealed Weapon or a Concealed Firearm; Providing an exemption from criminal penalties for carrying a concealed weapon or a concealed firearm when complying with a mandatory evacuation order during a declared state of emergency, etc. CJ 03/03/2014 Fav/CS MS CA	Fav/CS Yeas 5 Nays 2
3	CS/SB 326 Judiciary / Thompson (Similar H 227)	Victims of Wrongful Incarceration; Providing that a wrongfully incarcerated person who was convicted and sentenced to death on or before December 31, 1979, is exempt from certain application procedures for compensation if a special prosecutor issues a nolle prosequi after reviewing the defendant's conviction; requiring the claimant to file an application with the Department of Legal Affairs within a specified time; requiring the application to include certain information and documents; providing that the claimant is entitled to compensation if all requirements are met, etc. JU 02/11/2014 Fav/CS CJ 03/03/2014 Favorable AP RC	Favorable Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Monday, March 3, 2014, 4:00 —6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 328 Joyner (Identical H 247)	Trafficking in Illegal Drugs; Providing that a specified mandatory minimum term of imprisonment and a specified fine no longer apply upon a first conviction of a person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, a specified quantity of certain designated illegal drugs; providing that a specified mandatory minimum term of imprisonment and specified fine apply upon a second or subsequent conviction, etc. CJ 02/10/2014 Temporarily Postponed CJ 03/03/2014 Fav/CS JU RC	Fav/CS Yeas 4 Nays 3
5	SB 780 Bradley (Similar CS/H 697)	Controlled Substances; Adding to the list of Schedule I controlled substances specified materials, compounds, mixtures, or preparations that contain hallucinogenic substances, or any of their salts, isomers, and salts of isomers, if the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation; providing that a person who knowingly sells, purchases, manufactures, delivers, or brings into this state specified quantities of certain substances or who is knowingly in actual or constructive possession of such substances commits the offense of trafficking in Phenethylamines, a felony of the first degree, etc. CJ 03/03/2014 Fav/CS AP	Fav/CS Yeas 7 Nays 0
6	SB 978 Evers (Identical H 841)	Crime Stoppers Trust Fund; Authorizing a county that is awarded funds from the trust fund to use such funds for promotional items; making technical changes, etc. CJ 03/03/2014 Favorable CA AP	Favorable Yeas 7 Nays 0
7	SB 1060 Evers (Similar H 7029)	Code of Student Conduct; Providing that simulating a firearm or weapon while playing or wearing certain clothing or accessories is not grounds for disciplinary action or referral to the criminal justice or juvenile justice system; providing actions that constitute simulating a firearm or weapon while playing; providing criteria for determining whether certain student conduct warrants disciplinary action, etc. CJ 03/03/2014 Favorable ED JU	Favorable Yeas 5 Nays 2

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Monday, March 3, 2014, 4:00 —6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
Consideration of proposed committee bill:			
8	SPB 7030	Community Reentry Programs; Requiring the Department of Corrections to develop an operational plan to implement a vocational work-release pilot program in specified counties; requiring that the operational plan describe the necessary facilities, staff, budget, and methods for selecting inmates to participate in the pilot program; providing examples of vocational training or certification; requiring inmates to be within a specified time period of their release dates to be considered for participation in the pilot program, etc.	Submitted as Committee Bill Yeas 7 Nays 0
Consideration of proposed committee bill:			
9	SPB 7048	Renaming the Parole Commission; Renaming the Parole Commission as the Florida Commission on Offender Review; providing a directive to the Division of Law Revision and Information; conforming provisions to changes made by the act, etc.	Submitted as Committee Bill Yeas 7 Nays 0
Other Related Meeting Documents			

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: CS/SB 194

INTRODUCER: Agriculture Committee and Senator Latvala

SUBJECT: Spiny Lobster

DATE: February 20, 2014

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Akhavein	Becker	AG	Fav/CS
2. Hinton	Uchino	EP	Favorable
3. Sumner	Cannon	CJ	Favorable

I. Summary:

CS/SB 194 amends s. 379.407, F.S., to provide specific enhanced penalties for any person, firm, or corporation in possession of spiny lobster during closed season or in possession of wrung spiny lobster tails while on State waters. Any exception would be granted by Fish and Wildlife Conservation Commission (FWC) rules.

II. Present Situation:

The spiny lobster fishery is one of the most valuable fisheries in Florida. For the past five years, the dockside value of this fishery has totaled \$133.6 million. Trap theft, illegal sales, and poaching of spiny lobster results in a direct loss to legitimate commercial fishermen.

One hundred percent of the spiny lobster that is commercially harvested in the United States comes from Florida. Florida's commercial spiny lobster fishery is concentrated in South Florida, with approximately 90 percent of lobster harvested in the Florida Keys.

The spiny lobster fishery is jointly managed in federal waters by the Gulf of Mexico and the South Atlantic Fishery Management Councils. Most spiny lobster harvest, however, occurs in state waters, which are managed by the FWC. Regulations that have been implemented to ensure the long-term sustainability of the spiny lobster fishery include minimum size limits, closed seasons/areas, gear restrictions, and a trap limitation and permitting program.

In order to commercially harvest spiny lobster in Florida, a person must possess:

- a valid Saltwater Products License (SPL), which is Florida's commercial fishing license,
- a restricted species (RS) endorsement, and

- either a commercial spiny lobster endorsement (a “C” endorsement) or a commercial divers permit (called a “CD” endorsement).¹

Florida offers three types of SPLs depending on the needs of the fisherman. An “Individual SPL” authorizes a person to engage in commercial fishing activities from the shore or a vessel. This SPL is not tied to any one vessel and is issued in the individual’s name. A “Crew SPL” is also issued in an individual’s name and it authorizes the named individual to engage in commercial fishing activities from the shore or a vessel. It also authorizes each person who is fishing with the named individual aboard a vessel to engage in such activities under the license holder’s SPL. The final type of SPL is a “Vessel SPL.” This license is issued to a valid commercial vessel registration number and authorizes each person aboard that registered vessel to engage in commercial saltwater fishing activities. This license differs from the two previous SPLs because it is not issued in an individual’s name, but is rather tied to a specific vessel.²

The costs of various SPLs are listed in the following table:

Saltwater Products Licenses	Cost
Individual Resident	\$50.00
Individual Nonresident	\$200.00
Individual Alien	\$300.00
Crew Resident	\$150.00
Crew Nonresident	\$600.00
Crew Alien	\$900.00
Vessel Resident	\$100.00
Vessel Nonresident	\$400.00
Vessel Alien	\$600.00 ³

A free RS is also required to commercially harvest spiny lobster, which the FWC lists as a restricted species. In order to acquire an RS, SPL holders must show that their annual income from landings during one of the three years prior to applying for the RS was either \$5,000 or 25 percent of the fisherman’s annual income. Reported income must be attributed to landings and sales of saltwater products to a Florida wholesale dealer, under the SPL, unless the commercial fisherman qualifies under a different provision or exception.⁴

¹ FWC, *Commercial Regulations for Spiny Lobster (Crawfish)*, <http://myfwc.com/fishing/saltwater/commercial/spiny-lobster/> (last visited Feb. 4, 2014).

² FWC, *Commercial Saltwater Fishing New Applicants*, <http://myfwc.com/license/saltwater/commercial-fishing/new-applicants/#spl> (last visited Feb. 4, 2014).

³ FWC, *Commercial Saltwater products License Fees*, <http://myfwc.com/license/saltwater/commercial-fishing/csl-fees/> (last visited Feb. 4, 2014).

⁴ FWC, *Qualifying for the Restricted Species Endorsement*, <http://myfwc.com/license/saltwater/commercial-fishing/qualifying-for-rs/> (last visited Feb. 4, 2014).

The C endorsement allows fishermen to harvest lobsters with traps or bully nets. The use of traps requires FWC-issued trap certificates and current year trap tags, permanently affixed to each trap. There are no daily bag limits under the C endorsement, however, a daily vessel limit of 250 spiny lobsters applies when lobsters are harvested using bully nets. The C endorsement costs \$125 if the SPL holder has trap certificates. The C endorsement costs \$100 if the SPL holder is only fishing with bully nets.

A CD endorsement is required to commercially harvest lobster by diving, and can only be issued on a single vessel SPL. Harvesting lobster is limited to 250 lobster per day, per vessel in Broward, Dade, Monroe, Collier, and Lee Counties and adjoining federal waters with a CD endorsement. A CD endorsement may not be issued if the SPL holder has trap certificates. Rules concerning CD endorsements preclude any new CD endorsements from being issued. They are now only being renewed under specific circumstances.⁵ The CD endorsement costs \$100.

Below are the numbers of commercial fishermen possessing a valid SPL, RS, and lobster endorsement in the past five years.

- FY 2008-2009 – 1,472
- FY 2009-2010 – 1,388
- FY 2010-2011 – 1,412
- FY 2011-2012 – 1,465
- FY 2012-2013 – 1,510

The commercial spiny lobster season runs August 6th through March 31st. Typically, a large proportion of landings occur in the first several months of the season followed by a steady decline the rest of the season. For example, in October many fishermen shift to harvesting stone crab, which contributes to decreased effort in the spiny lobster commercial fishery. This tends to happen for other species as the end of the commercial season for those species approaches.

In Florida waters, recreational harvesters may take lobsters during the 2-day “sport season,” which occurs each year on the last consecutive Wednesday and Thursday of July, and during the commercial spiny lobster season. During the 2-day sport season, up to 12 lobsters per harvester, per day may be taken except in Monroe County, where harvesters may only take six lobsters per day. Recreational harvesters are not permitted to use traps to harvest spiny lobsters. In addition to a recreational saltwater fishing license, a spiny lobster permit (also called a lobster stamp) is required to recreationally harvest lobster in all state waters. The costs of recreational saltwater fishing licenses, as well as the spiny lobster permit are in the following table:

Resident Recreational Saltwater Fishing Licenses	Cost
Annual Saltwater Fishing	\$17.00
Youth Saltwater Fishing	\$17.00
5-Year Saltwater Fishing	\$79.00
Saltwater/Freshwater Fishing Combo	\$32.50
Saltwater/Freshwater/Hunting Combo	\$48.00

⁵ See Rule 68b-24.0055, F.A.C.

Saltwater Shoreline	Free
Gold Sportsman	\$100.00
Youth Gold Sportsman	\$100.00
5-Year Gold Sportsman	\$494.00
Military Gold Sportsman	\$20.00

Non-Resident Saltwater Fishing Licenses	Cost
Nonresident Annual Saltwater Fishing	\$47.00
Nonresident 3-Day Saltwater Fishing	\$17.00
Nonresident 7-Day Saltwater Fishing	\$30.00

Spiny Lobster Permits	Cost
Annual Spiny Lobster Permit	\$5.00
5-Year Spiny Lobster Permit (residents only)	\$25.00 ⁶

During the past five fiscal years, approximately 140,000 to 150,000 recreational spiny lobster permits were sold annually.⁷

Section 379.407(1), F.S., provides that any person, firm, or corporation who violates any provision of ch. 379, F.S., or any rule of the FWC relating to the conservation of marine resources are subject to the following penalties:

- Upon a first conviction, by imprisonment for not more than 60 days or by a fine of no less than \$100 or more than \$500, or by both, at the discretion of the judge.
- Upon a second or subsequent conviction within 12 months, by imprisonment for not more than 6 months or by a fine of no less than \$250 or more than \$1,000, or by both, at the discretion of the judge.

There are also additional penalties for “Major Violations” that apply in certain situations. Section 379.407(2)(a), F.S., provides that a violation committed by a commercial harvester, involving more than 100 illegal spiny lobster, will result in an additional penalty of \$10.00 for each lobster or part thereof. Additionally, s. 379.407(2)(i), F.S., provides that a violator who, in any single violation, possesses more than 25 spiny lobster during closed season or possesses more than 25 wrung tails must show just cause as to why his or her license should not be revoked.⁸

III. Effect of Proposed Changes:

Section 1 amends s. 379.407, F.S., to enhance the penalty for any person, firm, or corporation to be in possession of spiny lobster during the closed season or, while on the water, being in possession of spiny lobster tails that have been separated from the body. The bill classifies such violations as major violations. The bill authorizes possession of such spiny lobster if allowed by FWC rule. The bill provides the following penalties for violations of this act:

⁶ FWC, *Recreational Saltwater licenses & Permits*, <http://myfwc.com/license/recreational/saltwater-fishing/> (last visited Feb. 4, 2014).

⁷ FWC, *Senate Bill 194 Agency Analysis* (December 19, 2013) (on file with the Senate Agriculture Committee).

⁸ *Id.*

- **First violation** – Second degree misdemeanor. If the violation involves 25 or more lobster, the violation is a first degree misdemeanor.
- **Second violation** – First degree misdemeanor and the possibility of license suspension for up to 90 days.
- **Third violation** – First degree misdemeanor with a six-month mandatory minimum sentence of imprisonment in a county detention facility. The violator may be assessed a civil penalty of up to \$2,500 and the possibility of license suspension for up to six months.
- **Third violation within one year of second violation** – Third degree felony with a one-year mandatory minimum prison term. The violator is also assessed a civil penalty of \$5,000 and has all license privileges permanently revoked.
- **Fourth violation** – Third degree felony with a one-year mandatory minimum prison term. The violator is assessed a civil penalty of \$5,000 and has all license privileges permanently revoked.

Section 2 amends s. 379.401, F.S., to conform a cross-reference.

Section 3 provides that this act shall take effect July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Violators of the provisions of this bill will be subject to significant additional penalties, fines, and imprisonment.

C. Government Sector Impact:

Indeterminate. There may be an initial increase in fines assessed due to the provisions of this act. There may also be an increase in incarceration costs for additional penalties in the bill mandating imprisonment.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 379.407 and 379.401.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Agriculture on January 13, 2014:

The committee substitute:

- Deletes provisions pertaining to stone crab regulation;
- Classifies violations of the provisions of the bill as major violations; and
- Provides penalties for specified violations relating to possession of spiny lobster.

B. Amendments:

None.

By the Committee on Agriculture; and Senator Latvala

575-01048-14

2014194c1

A bill to be entitled

An act relating to spiny lobster; amending s. 379.407, F.S.; providing penalties for certain violations relating to possession of spiny lobster; amending s. 379.401, F.S.; conforming a cross-reference; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (5) through (8) of section 379.407, Florida Statutes, are renumbered as subsections (6) through (9), respectively, and a new subsection (5) is added to that section, to read:

379.407 Administration; rules, publications, records; penalties; injunctions.—

(5) PENALTIES FOR POSSESSION OF SPINY LOBSTER; CLOSED SEASON AND WRUNG TAILS.—It is a major violation under this section for any person, firm, or corporation to be in possession of spiny lobster during the closed season or, while on the water, to be in possession of spiny lobster tails that have been wrung or separated from the body, unless such possession is allowed by commission rule. Any person, firm, or corporation that violates this subsection is subject to penalties as follows:

(a) A first violation is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. If the violation involves 25 or more lobster, the violation is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Page 1 of 4

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575-01048-14

2014194c1

(b) A second violation is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and such person is subject to a suspension of all license privileges under this chapter for a period not to exceed 90 days.

(c) A third violation is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, with a mandatory minimum term of imprisonment of 6 months, and such person may be assessed a civil penalty of up to \$2,500 and is subject to a suspension of all license privileges under this chapter for a period not to exceed 6 months.

(d) A third violation within 1 year after a second violation is a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083, with a mandatory minimum term of imprisonment of 1 year, and such person shall be assessed a civil penalty of \$5,000 and all license privileges under this chapter shall be permanently revoked.

(e) A fourth or subsequent violation is a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083, with a mandatory minimum term of imprisonment of 1 year, and such person shall be assessed a civil penalty of \$5,000 and all license privileges under this chapter shall be permanently revoked.

Section 2. Paragraph (a) of subsection (2) of section 379.401, Florida Statutes, is amended to read:

379.401 Penalties and violations; civil penalties for noncriminal infractions; criminal penalties; suspension and forfeiture of licenses and permits.—

(2)(a) LEVEL TWO VIOLATIONS.—A person commits a Level Two violation if he or she violates any of the following provisions:

Page 2 of 4

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575-01048-14

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1. Rules or orders of the commission relating to seasons or time periods for the taking of wildlife, freshwater fish, or saltwater fish.

2. Rules or orders of the commission establishing bag, possession, or size limits or restricting methods of taking wildlife, freshwater fish, or saltwater fish.

3. Rules or orders of the commission prohibiting access or otherwise relating to access to wildlife management areas or other areas managed by the commission.

4. Rules or orders of the commission relating to the feeding of wildlife, freshwater fish, or saltwater fish.

5. Rules or orders of the commission relating to landing requirements for freshwater fish or saltwater fish.

6. Rules or orders of the commission relating to restricted hunting areas, critical wildlife areas, or bird sanctuaries.

7. Rules or orders of the commission relating to tagging requirements for wildlife and fur-bearing animals.

8. Rules or orders of the commission relating to the use of dogs for the taking of wildlife.

9. Rules or orders of the commission which are not otherwise classified.

10. Rules or orders of the commission prohibiting the unlawful use of finfish traps.

11. All prohibitions in this chapter which are not otherwise classified.

12. Section 379.33, prohibiting the violation of or noncompliance with commission rules.

13. Section 379.407(7) ~~379.407(6)~~, prohibiting the sale, purchase, harvest, or attempted harvest of any saltwater product

575-01048-14

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with intent to sell.

14. Section 379.2421, prohibiting the obstruction of waterways with net gear.

15. Section 379.413, prohibiting the unlawful taking of bonefish.

16. Section 379.365(2)(a) and (b), prohibiting the possession or use of stone crab traps without trap tags and theft of trap contents or gear.

17. Section 379.366(4)(b), prohibiting the theft of blue crab trap contents or trap gear.

18. Section 379.3671(2)(c), prohibiting the possession or use of spiny lobster traps without trap tags or certificates and theft of trap contents or trap gear.

19. Section 379.357, prohibiting the possession of tarpon without purchasing a tarpon tag.

20. Rules or orders of the commission prohibiting the feeding or enticement of alligators or crocodiles.

21. Section 379.105, prohibiting the intentional harassment of hunters, fishers, or trappers.

Section 3. This act shall take effect July 1, 2014.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Ethics and Elections, *Chair*
Budget - Subcommittee on General Government
Appropriations
Budget - Subcommittee on Transportation, Tourism,
and Economic Development Appropriations
Community Affairs
Environmental Preservation and Conservation
Rules
Judiciary
Appropriations
Select Committee on Gaming

SENATOR JACK LATVALA

20th District

February 18, 2014

The Honorable Greg Evers, Chair
Senate Committee on Criminal Justice
335 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Evers:

I respectfully request consideration of Senate Bill 194 regarding Crustaceans at your earliest convenience.

I have filed this bill in order to provide clarity in the assessment of penalties for those who violate Florida law regarding the illegal capture of crustaceans. I would greatly appreciate the opportunity to present this legislation to the Committee on Criminal Justice as soon as possible. It was referred favorably in the Environmental Preservation and Conservation Committee on February 5th.

If you have any questions regarding this legislation, please contact me. Thank you in advance for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Jack Latvala".

Jack Latvala
State Senator
District 20

Cc: Amanda Cannon, Staff Director; Sue Arnold, Administrative Assistant

REPLY TO:

- ☐ 26133 U.S. Highway 19 North, Suite 201 Clearwater, FL 33763 (727) 793-2797
- ☐ 408 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

Senate's Website: www.flsenate.gov

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3 / 3 / 2014

Meeting Date

Topic _____

Bill Number 194

(if applicable)

Name BRIAN PITTS

Amendment Barcode _____

(if applicable)

Job Title TRUSTEE

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Speaking: ☒ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/3/14

Meeting Date

Topic

SPINY LOBSTER

Bill Number

SB 194

(if applicable)

Name

JERRY SANSON

Amendment Barcode

(if applicable)

Job Title

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☒

For

☐

Against

☐

Information

Representing

ORGANIZED FISHERMEN of FL

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: CS/SB 296

INTRODUCER: Criminal Justice Committee and Senator Brandes

SUBJECT: Carrying a Concealed Weapon or a Concealed Firearm

DATE: March 3, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	Fav/CS
2.			MS	
3.			CA	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 296 creates an exception to s. 790.01, F.S. Section 790.01, F.S., is the statute that prohibits carrying concealed weapons or firearms unless a person is licensed to do so or if the weapon is a self-defense chemical spray or nonlethal stun gun or similar device designed for defensive purposes.

The exception provided in the bill only allows a person to carry a concealed weapon, or firearm if he or she may otherwise lawfully possess a firearm, while complying with a mandatory evacuation order issued pursuant to ch. 252, F.S., regardless of licensure status.

II. Present Situation:

Concealed and Open Carry, Weapons and Firearms, Criminal Penalties

Under current Florida law, it is lawful for a person to carry a concealed weapon without a concealed weapon license for purposes of lawful self-defense, so long as the weapon is limited to self-defense chemical spray, a nonlethal stun gun, a dart-firing stun gun, or other nonlethal electric weapon or device that is designed solely for defensive purposes.¹

¹ s. 790.01(4), F.S.

Without licensure, carrying a different type of concealed weapon,² electric weapon, or device other than one designed solely for defensive purposes is a first degree misdemeanor.³ Carrying a concealed firearm without proper licensure is a third degree felony offense.⁴

It is lawful for a person to openly carry a self-defense chemical spray, nonlethal stun gun or dart-firing stun gun, or other nonlethal electric weapon or device that is designed solely for defensive purposes.⁵

Certain persons under particular circumstances are exempt from the limitations on the open carry of weapons in s. 790.053, F.S., and the concealed firearm carry licensure requirements in s. 790.06, F.S., when the weapons and firearms are lawfully owned, possessed, and used. These persons and circumstances include:

- Members of the Militia, National Guard, Florida State Defense Force, Army, Navy, Air Force, Marine Corps, Coast Guard, organized reserves, and other armed forces of the state and of the United States, when on duty, when training or preparing themselves for military duty, or while subject to recall or mobilization;
- Citizens of this state subject to duty in the Armed Forces under s. 2, Art. X of the State Constitution, under chs. 250 and 251, F.S., and under federal laws, when on duty or when training or preparing themselves for military duty;
- Persons carrying out or training for emergency management duties under ch. 252, F.S.;
- Sheriffs, marshals, prison or jail wardens, police officers, Florida highway patrol officers, game wardens, revenue officers, forest officials, special officers appointed under the provisions of ch. 354, F.S., and other peace and law enforcement officers and their deputies and assistants and full-time paid peace officers of other states and of the Federal Government who are carrying out official duties while in this state;
- Guards or messengers of common carriers, express companies, armored car carriers, mail carriers, banks, and other financial institutions, while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state;
- Officers or employees of the state or United States duly authorized to carry a concealed weapon;
- Regularly enrolled members of any organization duly authorized to purchase or receive weapons from the United States or from this state, or regularly enrolled members of clubs organized for target, skeet, or trap shooting, while at or going to or from shooting practice; or regularly enrolled members of clubs organized for modern or antique firearms collecting, while such members are at or going to or from their collectors' gun shows, conventions, or exhibits;
- A person engaged in fishing, camping, or lawful hunting or going to or returning from a fishing, camping, or lawful hunting expedition;

² A concealed weapon, under s. 790.001(3)(a), F.S., means any dirk, metallic knuckles, slungshot, billie, tear gas gun, chemical weapon or device, or other deadly weapon carried on or about a person in such a manner as to conceal the weapon from the ordinary sight of another person. The weapons listed in this definition require licensure to carry them in a concealed manner.

³ s. 790.01(1), F.S.

⁴ s. 790.01(2), F.S.

⁵ s. 790.053, F.S.

- A person engaged in the business of manufacturing, repairing, or dealing in firearms, or the agent or representative of any such person while engaged in the lawful course of such business;
- A person firing weapons for testing or target practice under safe conditions and in a safe place not prohibited by law or going to or from such place;
- A person firing weapons in a safe and secure indoor range for testing and target practice;
- A person traveling by private conveyance when the weapon is securely encased or in a public conveyance when the weapon is securely encased and not in the person's manual possession;
- A person while carrying a pistol unloaded and in a secure wrapper, concealed or otherwise, from the place of purchase to his or her home or place of business or to a place of repair or back to his or her home or place of business;
- A person possessing arms at his or her home or place of business; and
- Investigators employed by the public defenders and capital collateral regional counsel of the state, while actually carrying out official duties.⁶

Concealed Weapons and Firearm Licensure

The Department of Agriculture and Consumer Services (DACS) is authorized to issue concealed weapon and firearm licenses to those applicants that qualify.⁷ Concealed weapons or concealed firearms are defined as a handgun, electronic weapon or device, tear gas gun, knife, or billie but not a machine gun for purposes of the licensure law.⁸

To obtain a concealed weapons or firearm license, a person must complete, under oath, an application that includes:

- The name, address, place and date of birth, race, and occupation of the applicant;
- A full frontal view color photograph of the applicant which must be taken within the preceding 30 days;
- A statement that the applicant has been furnished with a copy of ch. 790, F.S., relating to weapons and firearms and is knowledgeable of its provisions;
- A warning that the application is executed under oath with penalties for falsifying or substituting false documents;
- A statement that the applicant desires a concealed weapon or firearms license as a means of lawful self-defense;
- A full set of fingerprints;
- Documented proof of completion of a firearms safety and training course; and
- A nonrefundable license fee.⁹

Additionally, the applicant must attest that he or she is in compliance with the criteria contained in subsections (2) and (3) of s. 790.06, F.S.

⁶ s. 790.25(3), F.S.

⁷ s. 790.06(1), F.S.

⁸ *Id.*

⁹ s. 790.06(1)-(5), F.S.

Subsection (2) of s. 790.06, F.S., requires DACS to issue the license to carry a concealed weapon, if all other requirements are met, and the applicant:

- Is a resident of the United States and a citizen of the United States or a permanent resident alien of the United States, as determined by the United States Bureau of Citizenship and Immigration Services, or is a consular security official of a foreign government that maintains diplomatic relations and treaties of commerce, friendship, and navigation with the United States and is certified as such by the foreign government and by the appropriate embassy in this country;
- Is 21 years of age or older;
- Does not suffer from a physical infirmity which prevents the safe handling of a weapon or firearm;
- Is not ineligible to possess a firearm pursuant to s. 790.23, F.S., by virtue of having been convicted of a felony;
- Has not been committed for the abuse of a controlled substance or been found guilty of a crime under the provisions of ch. 893, F.S., or similar laws of any other state relating to controlled substances within a 3-year period immediately preceding the date on which the application is submitted;
- Does not chronically and habitually use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired. It shall be presumed that an applicant chronically and habitually uses alcoholic beverages or other substances to the extent that his or her normal faculties are impaired if the applicant has been committed under ch. 397, F.S., or under the provisions of former ch. 396, F.S., or has been convicted under s. 790.151, F.S., or has been deemed a habitual offender under s. 856.011(3), F.S., or has had two or more convictions under s. 316.193, F.S., or similar laws of any other state, within the 3-year period immediately preceding the date on which the application is submitted;
- Has not been adjudicated an incapacitated person under s. 744.331, F.S., or similar laws of any other state, unless 5 years have elapsed since the applicant's restoration to capacity by court order;
- Has not been committed to a mental institution under ch. 394, F.S., or similar laws of any other state, unless the applicant produces a certificate from a licensed psychiatrist that he or she has not suffered from disability for at least 5 years prior to the date of submission of the application;
- Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony or misdemeanor crime of domestic violence unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled, or the record has been sealed or expunged;
- Has not been issued an injunction that is currently in force and effect and that restrains the applicant from committing acts of domestic violence or acts of repeat violence; and
- Is not prohibited from purchasing or possessing a firearm by any other provision of Florida or federal law.¹⁰

DACS must deny the application if the applicant has been found guilty of, had adjudication of guilt withheld for, or had imposition of sentence suspended for one or more crimes of violence

¹⁰ s. 790.06(2), F.S.

constituting a misdemeanor, unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled or the record has been sealed or expunged.¹¹

DACS shall revoke a license if the licensee has been found guilty of, had adjudication of guilt withheld for, or had imposition of sentence suspended for one or more crimes of violence within the preceding 3 years.¹²

DACS shall, upon notification by a law enforcement agency, a court, or the Florida Department of Law Enforcement and subsequent written verification, suspend a license or the processing of an application for a license if the licensee or applicant is arrested or formally charged with a crime that would disqualify such person from having a license under this section, until final disposition of the case.¹³ DACS shall suspend a license or the processing of an application for a license if the licensee or applicant is issued an injunction that restrains the licensee or applicant from committing acts of domestic violence or acts of repeat violence.¹⁴

In addition, DACS is required to suspend or revoke a concealed weapons license if the licensee:

- Is found to be ineligible under the criteria set forth in subsection (2);
- Develops or sustains a physical infirmity which prevents the safe handling of a weapon or firearm;
- Is convicted of a felony which would make the licensee ineligible to possess a firearm pursuant to s. 790.23, F.S.;
- Is found guilty of a crime under the provisions of ch. 893, F.S., or similar laws of any other state, relating to controlled substances;
- Is committed as a substance abuser under ch. 397, F.S., or is deemed a habitual offender under s. 856.011(3), F.S., or similar laws of any other state;
- Is convicted of a second violation of s. 316.193, F.S., or a similar law of another state, within 3 years of a previous conviction of such section, or similar law of another state, even though the first violation may have occurred prior to the date on which the application was submitted;
- Is adjudicated an incapacitated person under s. 744.331, F.S., or similar laws of any other state; or
- Is committed to a mental institution under ch. 394, F.S., or similar laws of any other state.¹⁵

Licensees must carry their license and valid identification any time they are in actual possession of a concealed weapon or firearm and display both documents upon demand by a law enforcement officer.¹⁶ Failure to have proper documentation and display it upon demand is a second degree misdemeanor.¹⁷

¹¹ s. 790.06(3), F.S.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ s. 790.06(10), F.S.

¹⁶ s. 790.790.06(1), F.S.

¹⁷ s. 790.06(1), F.S.

A concealed weapon or firearms license does not authorize a person to carry a weapon or firearm in a concealed manner into:

- Any place of nuisance as defined in s. 823.05, F.S.;
- Any police, sheriff, or highway patrol station;
- Any detention facility, prison, or jail;
- Any courthouse;
- Any courtroom, except that nothing in this section would preclude a judge from carrying a concealed weapon or determining who will carry a concealed weapon in his or her courtroom;
- Any polling place;
- Any meeting of the governing body of a county, public school district, municipality, or special district;
- Any meeting of the Legislature or a committee thereof;
- Any school, college, or professional athletic event not related to firearms;
- Any school administration building;
- Any portion of an establishment licensed to dispense alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to such purpose;
- Any elementary or secondary school facility;
- Any career center;
- Any college or university facility unless the licensee is a registered student, employee, or faculty member of such college or university and the weapon is a stun gun or nonlethal electric weapon or device designed solely for defensive purposes and the weapon does not fire a dart or projectile;
- Inside the passenger terminal and sterile area of any airport, provided that no person shall be prohibited from carrying any legal firearm into the terminal, which firearm is encased for shipment for purposes of checking such firearm as baggage to be lawfully transported on any aircraft; or
- Any place where the carrying of firearms is prohibited by federal law.

Any person who willfully violates any of the above-listed provisions commits a misdemeanor of the second degree.¹⁸

Firearms in Vehicles

It is lawful for a person 18 years of age or older to possess a concealed firearm or other weapon for self-defense or other lawful purpose within the interior of a private conveyance, without a license, if the firearm or other weapon is securely encased or is otherwise not readily accessible for immediate use. The same is true for a legal long gun, without the need for encasement, when it is carried in the private conveyance for a lawful purpose.¹⁹

“Securely encased” means in a glove compartment, whether or not locked; snapped in a holster; in a gun case, whether or not locked; in a zippered gun case; or in a closed box or container

¹⁸ s. 790.06(12), F.S.

¹⁹ s. 790.25(5), F.S.

which requires a lid or cover to be opened for access.²⁰ The term “readily accessible for immediate use” means that a firearm or other weapon is carried on the person or within such close proximity and in such a manner that it can be retrieved and used as easily and quickly as if carried on the person.²¹

Reciprocity

DACS provides an up-to-date list of the states that honor Florida concealed carry licenses.²² It should be noted that travel with a concealed weapon or firearm into states that do not honor Florida’s concealed carry licenses, or when a person does not possess a concealed carry license subjects the person to the laws of that state.

Limitations on Purchase of a Firearm

Florida law prohibits transfer of a firearm by a federally licensed firearm dealer to a person who:

- Has been convicted of a felony and is prohibited from receipt or possession of a firearm pursuant to s. 790.23, F.S.;
- Has been convicted of a misdemeanor crime of domestic violence;
- Has had an adjudication of guilt withheld or imposition of sentence suspended on any felony or misdemeanor crime of domestic violence unless three years have elapsed since probation or any other conditions set by the court have been fulfilled or expunction has occurred;
- Has been indicted or has had an information filed against her or him for an offense that is a felony under state or federal law (pending disposition information that indicates the potential buyer is not prohibited);
- Has had an injunction for protection against domestic violence entered against him or her under s. 741.30, F.S.;
- Has had an injunction for protection against repeat violence entered against him or her under s. 784.046, F.S.; or
- Has been arrested for a dangerous crime as specified under s. 907.041(4)(a), F.S., or the crimes listed in s. 790.065(2)(c), F.S., (pending disposition information that indicates the potential buyer is not prohibited).

Emergency Management Powers of the Governor

Section 252.36(1), F.S., states that the Governor is responsible for meeting the dangers presented to this state and its people by emergencies. Under that authority the Governor can declare a state of emergency.

Section 252.36(2), F.S., provides that the state of emergency shall continue until the Governor finds that the threat or danger has been dealt with to the extent that the emergency conditions no longer exist and she or he terminates the state of emergency by executive order or proclamation, but no state of emergency may continue for longer than 60 days unless renewed by the Governor.

²⁰ s. 790.001(17), F.S.

²¹ s. 790.001(16), F.S.

²² <http://www.freshfromflorida.com/content/download/7444/118465/ReciprocityList.pdf>

The Legislature by concurrent resolution may terminate a state of emergency at any time. Thereupon, the Governor shall issue an executive order or proclamation ending the state of emergency.

In addition, pursuant to s. 252.36(5), F.S., the Governor may:

- direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state and
- suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles;
- however, nothing contained in ss. 252.31-252.90, F.S., shall be construed to authorize the seizure, taking, or confiscation of firearms that are lawfully possessed, unless a person is engaged in the commission of a criminal act.

III. Effect of Proposed Changes:

The bill creates an exception to s. 790.01, F.S., the statute that prohibits carrying concealed weapons or firearms unless a person is licensed to do so. If the weapon is a self-defense chemical spray or nonlethal stun gun or similar device designed for defensive purposes, a person may carry it concealed without a license.

The exception provided in the bill allows a person to carry a concealed weapon or firearm on or about his or her person, regardless of licensure status, while complying with a mandatory evacuation order issued pursuant to ch. 252, F.S. In order to carry a firearm the person must be lawfully able to possess the firearm.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference considered SB 296 on January 30, 2014 and determined that it would have an insignificant prison bed impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 790.01 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal Justice on March 3, 2014:

Clarifies that convicted felons who are not permitted to possess a firearm under any circumstances are not permitted to do so while following an evacuation order.

B. Amendments:

None.



270946

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/03/2014	.	
	.	
	.	
	.	

The Committee on Criminal Justice (Evers) recommended the following:

Senate Amendment

Delete line 25

and insert:

(b) A person who carries a concealed weapon or a person who may lawfully possess a firearm and who carries a concealed

By Senator Brandes

22-00083-14

2014296__

A bill to be entitled

An act relating to carrying a concealed weapon or a concealed firearm; amending s. 790.01, F.S.; providing an exemption from criminal penalties for carrying a concealed weapon or a concealed firearm when complying with a mandatory evacuation order during a declared state of emergency; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 790.01, Florida Statutes, is amended to read:

790.01 Carrying concealed weapons or concealed firearms.—

(1) Except as provided in subsection (3) ~~(4)~~, a person who carries a concealed weapon or electric weapon or device on or about his or her person commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Except as provided in subsection (3), a person who carries a concealed firearm on or about his or her person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) This section does not apply to:

(a) A person licensed to carry a concealed weapon or a concealed firearm pursuant to the provisions of s. 790.06.

(b) A person who carries a concealed weapon or a concealed firearm on or about his or her person while complying with a mandatory evacuation order issued during a state of emergency declared by the Governor pursuant to chapter 252.

~~(c) (4) It is not a violation of this section for~~ A person

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

22-00083-14

2014296__

~~who carries to carry~~ for purposes of lawful self-defense, in a concealed manner:

~~1. (a)~~ A self-defense chemical spray.

~~2. (b)~~ A nonlethal stun gun or dart-firing stun gun or other nonlethal electric weapon or device that is designed solely for defensive purposes.

~~(4) (5)~~ This section does not preclude any prosecution for the use of an electric weapon or device, a dart-firing stun gun, or a self-defense chemical spray during the commission of any criminal offense under s. 790.07, s. 790.10, s. 790.23, or s. 790.235, or for any other criminal offense.

Section 2. This act shall take effect July 1, 2014.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR JEFF BRANDES
22nd District

COMMITTEES:
Transportation, *Chair*
Agriculture
Appropriations Subcommittee on Finance and Tax
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Education
Health Policy

SELECT COMMITTEE:
Select Committee on Patient Protection
and Affordable Care Act

December 31, 2013

Senator Greg Evers, Chair
Committee on Criminal Justice
308 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100



Dear Chair Evers:

Please place Senate Bill 296, Carrying a Concealed Weapon or a Concealed Firearm, on the Criminal Justice Committee agenda at your earliest convenience.

Thank you for your consideration in this matter.

Sincerely,

A handwritten signature of Senator Jeff Brandes, written in black ink.

Senator Jeff Brandes

Cc: Amanda Cannon, Staff Director

REPLY TO:

- ☐ 3637 Fourth Street North, Suite 101, St. Petersburg, Florida 33704-1300 (727) 552-2745
- ☐ 318 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5022

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/3/14
Meeting Date

Topic Carrying a Concealed Weapon

Bill Number 296
(if applicable)

Name John Rutherford

Amendment Barcode _____
(if applicable)

Job Title Duval County Sheriff

Address _____
Street

Phone _____

City _____ State _____ Zip _____

E-mail _____

Speaking: ☐ For ☒ Against ☐ Information

Representing Florida Sheriffs Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3 Mch 14

Meeting Date

Topic _____

Bill Number SB 296

(if applicable)

Name Barney Bishop III

Amendment Barcode _____

(if applicable)

Job Title President & CEO

Address 204 S. Monroe St., Suite 201

Phone 850/907-3436

Street

Tallahassee

FL

32301

City

State

Zip

E-mail barney@barneybishop.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Fla. Smart Justice Alliance

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3 / 3 / 2014

Meeting Date

Topic _____

Bill Number 296

(if applicable)

Name BRIAN PITTS

Amendment Barcode _____

(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH

Street

Phone 727-897-9291

SAINT PETERSBURG

City

FLORIDA

State

33705

Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☒ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

TESTIFY LAST PLEASE

THE FLORIDA SENATE

APPEARANCE RECORD

3-3-14

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Topic GUNS - MANDATORY EVACUATION

Bill Number SB-296
(if applicable)

Name MARION P. HAMMER

Amendment Barcode _____
(if applicable)

Job Title _____

Address P.O. BOX 1387

Phone 850-222-9518

Street

TALLAHASSEE FL 32302

City

State

Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing NRA (NATIONAL RIFLE ASSOCIATION) UNITED SPORTSMEN OF FLORIDA

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: CS/SB 326

INTRODUCER: Judiciary Committee and Senator Thompson

SUBJECT: Victims of Wrongful Incarceration

DATE: February 24, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
2.	<u>Cellon</u>	<u>Cannon</u>	<u>CJ</u>	Favorable
3.	_____	_____	<u>AP</u>	_____
4.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 326 amends the “Victims of Wrongful Incarceration Compensation Act” to make a limited expansion in the type of evidence a claimant may use as proof of eligibility for compensation as a wrongfully incarcerated person. Under the bill, a claimant is “innocent of the offenses charged” and eligible for compensation if:

- The Governor by an executive order appointed a special prosecutor to review the claimant’s conviction;
- The special prosecutor entered a nolle prosequi for charges for which the claimant was convicted and sentenced to death; and
- The claimant was convicted and sentenced to death before January 1, 1980.

Under current law, a claimant’s eligibility for compensation is established through a court order vacating the claimant’s conviction and sentence as the result of exonerating evidence.

A claimant who is eligible for compensation under the criteria in the bill must apply to the Department of Legal Affairs (DLA) for compensation. The same application documents currently required for compensation under the existing criteria are required for a claimant who is eligible for compensation under the bill, except that the certified copy of the nolle prosequi or nolle prosequi memorandum replaces the requirement of the court order vacating conviction and sentence.

Current amounts and forms of compensation, such as monetary compensation, an educational tuition and fee waiver, and the reimbursement of fines, penalties, court costs, and reasonable attorney's fees available to wrongfully incarcerated persons are equally available to wrongfully incarcerated persons qualifying for redress under the bill. Similarly, timelines for the DLA to review an application and related decision-making are the same as in current law.

The bill does not affect the provision of existing law which makes a wrongfully incarcerated person ineligible for compensation as the result of a disqualifying felony conviction.

A claimant seeking compensation under the expanded eligibility criteria in the bill must apply to the DLA by July 1, 2016.

II. Present Situation:

Wrongful Incarceration Act and Postconviction DNA Testing

In 2001 postconviction DNA testing became more widely available in Florida. It was a statutory recognition that the science behind DNA testing was evolving and reliable evidence of identity.¹ In cases where DNA evidence exists at the crime scene, and it is collected and processed properly, DNA has been the evidence that can help solve “cold cases” and provide the basis for exonerating the innocent.

The Florida Legislature established the “Victims of Wrongful Incarceration Compensation Act” (Act) in 2008.² The Act defines a wrongfully incarcerated person as:

a person whose felony conviction and sentence have been vacated by a court of competent jurisdiction and ... the original sentencing court has issued its order finding that the person neither committed the act nor the offense that served as the basis for the conviction and incarceration and that the person did not aid, abet, or act as an accomplice or accessory to a person who committed the act or offense.³

The impetus for the Act seems to have been the number of exonerations that were occurring in Florida due to DNA evidence showing that people were innocent of committing crimes for which they were incarcerated and the Legislature's interest in compensating these wrongfully incarcerated people.⁴

¹ See Ch. 2001-97, L.O.F.; s. 925.11 and s. 943.3251, F.S.; see also *Sireci v. State*, 773 So.2d 34 (Fla. 2000) noting that “DNA typing was recognized in this state as a valid test as early as 1988.” It should be noted, however, that in crimes that occurred long before DNA testing was admitted in evidence by the courts, physical evidence from a crime scene was likely collected and processed much differently than it is now because there was no expectation that such scientific evidence existed.

² Chapter 2008-39, L.O.F.

³ Section 961.02(4), F.S.

⁴ “The Bill Analysis and Fiscal Impact Statement prepared by the staff of the Judiciary Committee demonstrates that the Victims of Wrongful Incarceration Compensation Act was prompted by cases in which DNA evidence had exonerated defendants. See Fla. S. Bill Analysis & Fiscal Impact Statement of Mar. 26, 2008, § 2 for Bill CS/SB 756, p. 2 (“In Florida, at least nine people have been exonerated or released from incarceration since 2000, as a result of post-conviction DNA

Disqualifying Felonies

To be eligible for compensation, a wrongfully incarcerated person must not have a disqualifying felony, which is one of the following situations:

- The person had a prior conviction or pled guilty or nolo contendere to a felony offense in this state, a federal offense that is a felony, or to an offense in another state that would be a felony in this state;
- The person was convicted of, or pled guilty or nolo contendere to a felony offense while wrongfully incarcerated; or
- While wrongfully incarcerated, the person was serving a concurrent sentence for another felony for which the person was not wrongfully convicted.⁵

Court Process of Establishing Status as a Wrongfully Incarcerated Person

The claimant first files a petition with the original sentencing court seeking status as a wrongfully incarcerated person eligible for compensation. The claimant must allege in the petition that verifiable and substantial evidence of actual innocence exists and that the claimant is not disqualified from seeking compensation.⁶

The prosecuting authority has 30 days to submit a response to the court.⁷

Based on the prosecuting attorney's response, the court will either find that the petitioner has met his or her burden through clear and convincing evidence of innocence, or that based on a preponderance of the evidence, that the petitioner is ineligible for compensation due to a separate disqualifying felony.⁸ If the court finds the petitioner ineligible, the court will dismiss the petition.⁹

If the prosecuting attorney contests the petition and raises issues of fact on the question of innocence, an administrative law judge must determine whether the petitioner is eligible for compensation.¹⁰ The original sentencing court will then review the administrative law judge's finding and issue its own order within 60 days.¹¹

Application Requirements for the Department of Legal Affairs

After receiving a court order vacating the conviction and the sentence, the claimant must file an application with the Department of Legal Affairs (DLA) within 2 years after the original sentencing court enters its order finding that the person is a wrongfully incarcerated person eligible for compensation.¹²

testing.”). The legislature was concerned about compensating persons who were actually innocent, but not necessarily about paying people who had been found not guilty.” *Fessenden v. State*, 52 So. 3d (Fla. 2d DCA 2010).

⁵ Section 961.04, F.S.

⁶ Section 961.03(1)(a)1. and 2., F.S.

⁷ Section 961.03(2), F.S.

⁸ Section 961.03(3) and (4), F.S.

⁹ Section 961.03(4)(a), F.S.

¹⁰ Section 961.03(5), F.S.

¹¹ Section 961.03(6)(d), F.S.

¹² Section 961.05(1), F.S.

The claimant must provide through application:

- A certified copy of the order vacating the conviction and sentence;
- A certified copy of the original sentencing court's order finding the claimant to be a wrongfully incarcerated person who is eligible for compensation (meaning not disqualified);
- Certified copies of the original judgment and sentence;
- Documentation of the length of sentence served, including from the Department of Corrections (DOC) showing the person's admission and release from the custody of the DOC;
- Proof of identification, including two sets of fingerprints taken by a law enforcement agency and a current form of photo identification, showing that the applicant is the person wrongfully incarcerated;
- Supporting documentation of fines, penalties, and court costs imposed and paid by the wrongfully incarcerated person;
- Supporting documentation of reasonable attorney's fees and expenses; and
- Any documentation required by the DLA.¹³

The DLA forwards one set of fingerprints each to the Department of Law Enforcement (FDLE) and the Federal Bureau of Investigation (FBI) for a criminal records background check of the applicant.¹⁴

The DLA must notify the applicant of errors or omissions within 30 calendar days after receipt of the application and provide an opportunity to correct the application within 15 days.¹⁵

The DLA has 90 days to process a claim and must notify the claimant within 5 business days after its determination. If the DLA determines that the applicant meets all requirements, the applicant is eligible for compensation.¹⁶

Compensation

Compensation consists of:

- Monetary compensation, at the rate of \$50,000 for each year of wrongful incarceration, subject to proration and inflation based on the Consumer Price Index;
- A waiver of tuition and fees for up to 120 hours of instruction at a public career center, community college, or state university;
- A refund of fines, penalties, and court costs imposed and paid;
- Reasonable attorney's fees and expenses incurred and paid; and
- Immediate expunction, including administrative expunction, of the person's criminal record of the wrongful arrest, conviction, and incarceration.

¹³ Section 961.05(4), F.S.

¹⁴ Section 961.05(5), F.S.

¹⁵ Section 961.05(6), F.S.

¹⁶ Section 961.05(6) and (7), F.S.

Total compensation is capped at \$2 million.¹⁷

Wrongfully Incarcerated Persons Ineligible for Relief under Chapter 961, F.S.

Although the Wrongful Incarceration Act specifically provides compensation for wrongfully incarcerated persons, not all wrongfully incarcerated persons are eligible for relief under the Act.

James Richardson was the first man to file a claim under the Act. Mr. Richardson was convicted of murdering one of his children by poisoning (although all of his seven children and step-children died during the tragedy), in Arcadia in 1968. He spent over 21 years in prison, four of them on Death Row¹⁸ before his sentence was eventually vacated and he was granted a new trial in 1989. The trial never occurred because the Miami-Dade State Attorney who had been assigned by the Governor to investigate allegations against the state of suborning perjury, using perjured testimony to obtain a conviction, and suppressing exculpatory evidence agreed to the new trial. The Special Prosecutor then filed a *nolle prosequi* in the case, thereby closing the case to further proceedings by the State.¹⁹

Mr. Richardson and DeSoto County subsequently settled a lawsuit over his wrongful prosecution for \$150,000. The State contested his claim under the Act, however, and the matter went to a hearing before an Administrative Law Judge (ALJ) on July 17, 2009.²⁰ At the hearing, Mr. Richardson testified that he did not kill his children and took two approaches to provide verifiable and substantial evidence of his innocence in support of his testimony.

He first relied upon the investigation conducted by the Miami-Dade State Attorney and the testimony of one of its participants. Mr. Richardson's second approach was to attempt to show that the babysitter had murdered the children by presenting facts regarding the timing of her access to the children, her ability to poison the children's lunch, her suspicious behavior during the minutes after the children became violently ill, and a possible motive for her actions.²¹ A 1988 affidavit written by the Arcadia Chief of Police in which he opined that Mr. Richardson had been framed and that the babysitter was the guilty party was also presented as evidence at the hearing.²²

The ALJ found there to be "clear and convincing evidence that the investigation leading up to (Mr. Richardson's) prosecution and conviction was incomplete," that there was "conflicting evidence," that critical facts were never determined, conflicting statements were withheld from the defense, the State presented perjured testimony from jailhouse informants and apparently the

¹⁷ Section 961.06(1), F.S.

¹⁸ Richardson's death sentence was commuted to 25 years to life after the U.S. Supreme Court decided the 1972 *Furman v. Georgia* case that found unconstitutional procedural errors in capital cases and which required resentencing in cases where the death penalty had been handed down (408 U.S. 238, 92 S.Ct. 2726, 33 L.Ed.2d 346 (1972)).

¹⁹ Florida Commission on Capital Cases, "Case Histories: A Review of 23 Individuals Released from Death Row," June 20, 2002; see also Sherrer, "Arcadia and the Twenty Year Effort to Exonerate James Joseph Richardson," <http://justicedenied.org/arcadia.htm>, September 11, 2008.

²⁰ *Id.* See also "Wrongly jailed inmate seeks compensation," the Associated Press, July 17, 2009, reported at <http://www2.tbo.com>.

²¹ *Id.*

²² *Id.*

sheriff, and that the “investigation appeared to focus only on (Mr. Richardson) as a suspect and not also on others whose involvement was suspicious.”²³

The ALJ found that while there *was* an absence of evidence proving Mr. Richardson guilty beyond a reasonable doubt (at the murder trial), there *was not* sufficient evidence at the hearing to find Mr. Richardson actually innocent as required by the Act.²⁴

The ALJ explained that the Act requires consideration of the *factual sufficiency* (of the evidence) “[i]n other words, proof of actual innocence is required.”²⁵ Paragraph 38 of the ALJ’s findings of fact indicates that “hearsay,” “suggestions,” “opinion testimony,” memoranda outlining the Governor-ordered investigation and responses thereto, testimony by individuals as to what they considered during their respective investigations, nor Mr. Richardson’s own testimony denying his guilt constituted verifiable and substantial evidence of his innocence.²⁶

Upon reviewing the ALJ’s recommended order and a transcript of the hearing, the trial court entered its order denying Mr. Richardson’s claim.²⁷ Mr. Richardson appealed the court’s order and it was affirmed by the Second District Court of Appeal.²⁸

III. Effect of Proposed Changes:

The bill makes a limited expansion in the type of evidence a claimant may use as proof of eligibility for compensation as a wrongfully incarcerated person under the “Victims of Wrongful Incarceration Compensation Act.” Under the bill, a claimant is “innocent of the offenses charged” and eligible for compensation if:

- The Governor by an executive order appointed a special prosecutor to review the claimant’s conviction;
- The special prosecutor entered a nolle prosequi for charges for which the claimant was convicted and sentenced to death; and
- The claimant was convicted and sentenced to death before January 1, 1980.

Under current law, a claimant’s eligibility for compensation is established through a court order vacating the claimant’s conviction and sentence as the result of exonerating evidence.

²³ Recommended Order, *Richardson v. State*, Case No. 09-2718VWI, August 21, 2009.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Richardson v. State*, Case No. 09-2718VWI, Final Order, October 23, 2009. It is interesting to note that as in the Richardson case, some 41 years after a crime occurred it is unlikely that verifiable and substantial evidence of innocence is available to a claimant in a case where DNA evidence is nonexistent.

²⁸ *Richardson v. State*, 2010 WL 5464239 (Fla. 2d DCA December 29, 2010), referencing *Fessenden v. State*, 52 So.3d 35 (Fla. 2d DCA 2010) in which Fessenden’s conviction was overturned on a *matter of law*. It was not overturned because the State failed to prove wrongdoing. In the *Fessenden* case analysis, the Court notes that “[w]hen an appellate court reverses a judgment and sentence for lack of evidence, it does not make any determination that the defendant is actually innocent; it merely determines that the State did not provide evidence that could support a verdict of guilt beyond a reasonable doubt. There is a substantial difference in our system of justice between the concept of ‘not guilty’ and that of ‘actual innocence.’”

Under the bill, just as for other claims for compensation under ch. 961, F.S., only the wrongfully incarcerated person may pursue a claim. An estate or a personal representative of an estate is prohibited from filing a claim on behalf of a wrongfully incarcerated person.

To receive compensation, the wrongfully incarcerated person must submit an application to the DLA which includes:

- A certified copy of the nolle prosequi or nolle prosequi memorandum;
- Certified copies of the original judgment and sentence;
- Documentation of the length of sentence served, including from the Department of Corrections (DOC) showing the person's admission and release from the custody of the DOC;
- Proof of identification, including two sets of fingerprints taken by a law enforcement agency of this state and a current form of photo identification;
- Supporting documentation of fines, penalties, and courts costs imposed and paid by the wrongfully incarcerated person;
- Supporting documentation of reasonable attorney's fees and expenses; and
- Any documentation required by the DLA.

Application requirements are identical to the current requirements under s. 961.05, F.S., except that, instead of requiring a court order vacating conviction and sentence, the nolle prosequi entered into by the special prosecutor is required. Likewise, a mandatory background check confirming an absence of disqualifying felonies remains in place. And the timelines for the DLA to process applications are the same.

If the DLA determines that a claimant meets the requirements of the Act, the wrongfully incarcerated person is entitled to the same forms and amounts of compensation currently provided in law.

This bill clarifies that the Chief Financial Officer (CFO) may purchase multiple annuities selected by a wrongfully incarcerated person, instead of a single annuity, with the compensation awarded under the Victims of Wrongful Incarceration Compensation Act. In purchasing the annuities, the CFO must maximize the benefits to the wrongfully incarcerated person.

A claimant seeking compensation under the expanded eligibility criteria in the bill must apply to the DLA by July 1, 2016.

The bill takes effect July 1, 2014 and is repealed July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Office of the State Courts Administrator does not expect a fiscal impact.²⁹

The Department of Legal Affairs (DLA) does not expect a fiscal impact. To date, the DLA indicates that seven claims have been made since the inception of ch. 961, F.S., in 2008. Of these, three claims have been paid in the cases of Leroy McGee (2010), James Bain (2011), and Luis Diaz (2012). The DLA denied 1 claim, that of Jarvis McBride (2012). Three other claims resulted in findings of ineligibility or incomplete submission of application: Robert Lewis (2011), Edwin Lampkin (2012), and Ricardo Johnson (2013).

The DLA has incurred insignificant costs to process applications for compensation due to the scarcity of claims to date and because the claimant is responsible for providing necessary documentation.³⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 961.055 and 961.056 of the Florida Statutes.

²⁹ Office of the State Courts Administrator, *2014 Judicial Impact Statement SB 326* (February 6, 2014).

³⁰ Email correspondence with Rob Johnson, Director of Legislative and Cabinet Affairs, Office of the Attorney General (February 5, 2014).

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Judiciary on February 11, 2014:

The committee substitute:

- Clarifies that the Chief Financial Officer (CFO) may purchase multiple annuities selected by a wrongfully incarcerated person instead of a single annuity.
- Specifies that in entering into annuity contracts for the compensation awarded under the Victims of Wrongful Incarceration Compensation Act, the CFO must maximize the benefit to the wrongfully incarcerated person.

- B. **Amendments:**

None.

By the Committee on Judiciary; and Senator Thompson

590-01753-14

2014326c1

A bill to be entitled

An act relating to victims of wrongful incarceration; creating s. 961.055, F.S.; providing that a wrongfully incarcerated person who was convicted and sentenced to death on or before December 31, 1979, is exempt from certain application procedures for compensation if a special prosecutor issues a nolle prosequi after reviewing the defendant's conviction; creating s. 961.056, F.S.; providing alternative procedures for applying for compensation; requiring the claimant to file an application with the Department of Legal Affairs within a specified time; requiring the application to include certain information and documents; providing that the claimant is entitled to compensation if all requirements are met; providing that the section is repealed on a specified date; amending s. 961.06, F.S.; requiring the Chief Financial Officer to issue payment to an insurance company or other financial institution authorized to issue annuity contracts to purchase an annuity or annuities selected by the wrongfully incarcerated person; authorizing the Chief Financial Officer to execute all necessary agreements to implement compensation and to maximize the benefit to the wrongfully incarcerated person; requiring the wrongfully incarcerated person to sign a waiver before the department's approval of the application; providing an effective date.

Page 1 of 6

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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2014326c1

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 961.055, Florida Statutes, is created to read:

961.055 Application for compensation for a wrongfully incarcerated person; exemption from application by nolle prosequi.-

(1) A person alleged to be a wrongfully incarcerated person who was convicted and sentenced to death on or before December 31, 1979, is exempt from the application provisions of ss. 961.03, 961.04, and 961.05 in the determination of wrongful incarceration and eligibility to receive compensation pursuant to s. 961.06 if:

(a) The Governor issues an executive order appointing a special prosecutor to review the defendant's conviction; and

(b) The special prosecutor thereafter enters a nolle prosequi for the charges for which the defendant was convicted and sentenced to death.

(2) The nolle prosequi constitutes conclusive proof that the defendant is innocent of the offenses charged and is eligible to receive compensation under this chapter.

(3) This section is repealed July 1, 2018.

Section 2. Section 961.056, Florida Statutes, is created to read:

961.056 Alternative application for compensation for a wrongfully incarcerated person.-

(1) A person who has been determined to be a wrongfully incarcerated person pursuant to s. 961.055 is eligible to apply to the department to receive compensation for such wrongful

Page 2 of 6

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59 incarceration.

60 (a) Only the wrongfully incarcerated person may apply for
 61 compensation. The estate of, or personal representative for, a
 62 decendent may not apply on behalf of the decendent for
 63 compensation for wrongful incarceration.

64 (b) In order to receive compensation, the wrongfully
 65 incarcerated person shall, by July 1, 2016, submit to the
 66 Department of Legal Affairs an application for compensation
 67 irrespective of whether the person has previously sought
 68 compensation under this chapter. The application must include:

69 1. A certified copy of the nolle prosequi or nolle prosequi
 70 memorandum;

71 2. Certified copies of the original judgment and sentence;

72 3. Documentation demonstrating the length of the sentence
 73 served, including documentation from the Department of
 74 Corrections regarding the person's admission into and release
 75 from the custody of the Department of Corrections;

76 4. Positive proof of identification, as evidenced by two
 77 full sets of fingerprints prepared by a law enforcement agency
 78 of this state and a current form of photo identification;

79 5. Supporting documentation of any fine, penalty, or court
 80 costs imposed on and paid by the wrongfully incarcerated person
 81 as described in s. 961.06(1);

82 6. Supporting documentation of any reasonable attorney fees
 83 and expenses as described in s. 961.06(1); and

84 7. Any other documentation, evidence, or information
 85 required by rules adopted by the department.

86 (2) The law enforcement agency that prepared the
 87 applicant's set of fingerprints shall forward both full sets to

590-01753-14

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88 the Department of Law Enforcement. The Department of Law
 89 Enforcement shall retain one set for statewide criminal records
 90 checks and forward the second set of fingerprints to the Federal
 91 Bureau of Investigation for national criminal records checks.
 92 The results of the state and national records checks shall be
 93 submitted to the department.

94 (3) Upon receipt of an application, the department shall
 95 examine the application and, within 30 days after receipt of the
 96 application, shall notify the claimant of any error or omission
 97 and request any additional information relevant to the review of
 98 the application.

99 (a) The claimant has 15 days after proper notification by
 100 the department to correct any identified error or omission in
 101 the application and to supply any additional information
 102 relevant to the application.

103 (b) The department may not deny an application for failure
 104 of the claimant to correct an error or omission or to supply
 105 additional information unless the department has notified the
 106 claimant of such error or omission and requested the additional
 107 information within the 30-day period specified in this
 108 subsection.

109 (c) The department shall process and review each complete
 110 application within 90 calendar days.

111 (d) Once the department determines whether a claim for
 112 compensation meets the requirements of this chapter, the
 113 department shall notify the claimant within 5 business days
 114 after that determination.

115 (5) If the department determines that a claimant meets the
 116 requirements of this chapter, the wrongfully incarcerated person

590-01753-14

2014326c1

117 is entitled to compensation under s. 961.06.

118 (6) This section is repealed July 1, 2018.

119 Section 3. Subsections (4) and (5) of section 961.06,
120 Florida Statutes, are amended to read:

121 961.06 Compensation for wrongful incarceration.-

122 (4) The Chief Financial Officer shall issue payment in the
123 amount determined by the department to an insurance company or
124 other financial institution admitted and authorized to issue
125 purchase an annuity contracts in this state to purchase an
126 annuity or annuities, selected by the wrongfully incarcerated
127 person, on behalf of the claimant for a term of not less than 10
128 years. The Chief Financial Officer is directed to execute all
129 necessary agreements to implement this act and to maximize the
130 benefit to the wrongfully incarcerated person. The terms of the
131 annuity or annuities shall:

132 (a) Provide that the annuity or annuities may not be sold,
133 discounted, or used as security for a loan or mortgage by the
134 wrongfully incarcerated person applicant.

135 (b) Contain beneficiary provisions for the continued
136 disbursement of the annuity or annuities in the event of the
137 death of the wrongfully incarcerated person applicant.

138 (5) Before the department approves the application for
139 compensation ~~Chief Financial Officer draws the warrant for the~~
140 ~~purchase of the annuity,~~ the wrongfully incarcerated person
141 ~~claimant~~ must sign a release and waiver on behalf of the
142 wrongfully incarcerated person claimant and his or her heirs,
143 successors, and assigns, forever releasing the state or any
144 agency, instrumentality, or any political subdivision thereof,
145 or any other entity subject to ~~the provisions of s. 768.28, from~~

Page 5 of 6

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146 all present or future claims that the wrongfully incarcerated
147 person claimant or his or her heirs, successors, or assigns may
148 have against such entities arising out of the facts in
149 connection with the wrongful conviction for which compensation
150 is being sought under the act. ~~The release and waiver must be~~
151 ~~provided to the department prior to the issuance of the warrant~~
152 ~~by the Chief Financial Officer.~~

153 Section 4. This act shall take effect July 1, 2014.

Page 6 of 6

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR GERALDINE F. THOMPSON
12th District

COMMITTEES:
Appropriations Subcommittee on General
Government, *Vice Chair*
Community Affairs, *Vice Chair*
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Children, Families, and Elder Affairs
Commerce and Tourism
Transportation

JOINT COMMITTEE:
Joint Administrative Procedures Committee

February 13, 2013

The Honorable Greg Evers
308 SOB
By Hand

Dear Chair Evers:

I respectfully request CS/SB 326 be placed on the agenda of the Committee on Criminal Justice as soon as possible.

This Bill will allow an individual who has been incarcerated in the State of Florida, but as a result of circumstances beyond their control, is unable to prove his or her innocence through the conventional means such as DNA evidence coming to light or a judicial re-hearing of the evidence, to make application to the Department of Legal Affairs by proving their wrongful incarceration by an additional procedure.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Geraldine F. Thompson".

Senator Geraldine F. Thompson

cc: Amanda Cannon

REPLY TO:

- ☐ 511 W. South Street, Suite 204, Orlando, Florida 32805
- ☐ 224 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5012

Senate's Website: www.flisenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-3-14

Meeting Date

Topic

Wrongful incarceration

Bill Number

326

(if applicable)

Name

Richard Pinsky

Amendment Barcode

(if applicable)

Job Title

Address

106 E College Ave

Street

Tallahassee FL 32301

City

State

Zip

Phone

E-mail

Speaking:

☒

For

☐

Against

☐

Information

Representing

James Joseph Richardson

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3 / 3 / 2014

Meeting Date

Topic _____ Bill Number 326
Name BRIAN PITTS (if applicable)
Job Title TRUSTEE Amendment Barcode _____ (if applicable)
Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street
City SAINT PETERSBURG State FLORIDA Zip 33705
E-mail JUSTICE2JESUS@YAHOO.COM
Speaking: ☐ For ☐ Against ☒ Information
Representing JUSTICE-2-JESUS
Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: CS/SB 328

INTRODUCER: Criminal Justice Committee and Senator Joyner

SUBJECT: Trafficking in Illegal Drugs

DATE: March 3, 2014

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Erickson	Cannon	CJ	Fav/CS
2. _____	_____	JU	_____
3. _____	_____	RC	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 328 authorizes a court to grant a defendant motion to depart from a 3-year mandatory minimum term and mandatory fine for trafficking in cocaine, certain opiates or opioids, phencyclidine, amphetamine, methamphetamine, flunitrazepam, phenethylamines, or lysergic acid diethylamide (LSD) if the court finds all of the following criteria are met:

- The defendant has not previously moved for a departure.
- The offense involves simple possession.
- The trafficking violation does not involve exploitation of a minor or violence.
- The defendant does not have a previous conviction, adjudication of delinquency, or withhold or adjudication of guilt for drug trafficking or for selling, manufacturing, or delivering, or possessing with intent to sell, manufacture or deliver, a controlled substance.
- The defendant is amenable to substance abuse treatment if the court determines that he or she is in need of such treatment.

The state attorney may object to the motion to depart.

The court's decision on how to dispose of the motion is completely discretionary. Therefore, the bill does not compel the court to grant the motion to depart even if the court finds that all of the criteria are met.

II. Present Situation:

Drug Trafficking

Unlawful activities involving controlled substances (e.g., possession or sale of controlled substances) are punishable under s. 893.13, F.S. (prohibited acts involving controlled substances), and s. 893.135, F.S. (drug trafficking). “Drug trafficking” consists of knowingly selling, purchasing, manufacturing, delivering, or bringing into this state, or knowingly being in actual or constructive possession¹ of, certain controlled substances in a statutorily-specified quantity.

Whether a person is charged with drug trafficking depends, in part, on the type of controlled substance possessed, sold, etc. Only a limited number of controlled substances are covered under s. 893.135, F.S. Relevant to the bill, s. 893.135, F.S., covers cocaine, certain opiates² or opioids,³ phencyclidine, amphetamine, methamphetamine, flunitrazepam, phenethylamines,⁴ and lysergic acid diethylamide (LSD).

The quantity of a covered controlled substance must also meet a minimum weight threshold prescribed in s. 893.135, F.S. Most drug trafficking offenses are first degree felonies⁵ and are subject to mandatory minimum terms.⁶ Section 893.135, F.S., establishes escalating weight ranges. The mandatory minimum term applicable to a drug trafficking act depends upon which weight range is applicable to the quantity of the controlled substance possessed, sold, etc. In some cases, possession, sale, etc., of a relatively small quantity of a covered controlled substance will trigger drug trafficking penalties.

Relevant to the bill, the shortest mandatory minimum term available under s. 893.135, F.S., is a 3-year mandatory minimum term. Provided are the threshold weights that trigger drug trafficking penalties and the weight ranges applicable to a 3-year mandatory minimum term for each of the controlled substances or controlled substance categories addressed by the bill.

Statutory Reference	Covered Substance	Threshold Weight	Weight Range Applicable to 3-Year Mandatory Minimum Term
s. 893.13(1)(b), F.S.	Cocaine	28 grams	28 grams or more but less than 200 grams

¹ One important and unique feature of the drug trafficking statute is that the prosecutor is not required to prove that the possession of the controlled substance was with the intent to sell, deliver, manufacture, etc., the substance.

² Examples of opiates are opium and morphine.

³ Examples of opioids are heroin, oxycodone, hydrocodone, and hydromorphone.

⁴ “Phenethylamines” is a broad category of “psychoactive substances.” Sanders B., Lankenau S.E., Bloom J.J., Hathazi D. “‘Research chemicals’: Tryptamine and Phenethylamine Use Among High Risk Youth,” *Substance Use & Misuse* (2008), Vol. 43, No. 3-4, Pages 389-402, available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2536767/> (last viewed on Feb. 25, 2014).

⁵ A first degree felony is generally punishable by up to 30 years in state prison. Section 775.082, F.S. Repeat offender sanctions may be available under ss. 775.082 and 775.084, F.S.

⁶ Most drug offenses under s. 893.13, F.S., are not subject to mandatory minimum terms.

Statutory Reference	Covered Substance	Threshold Weight	Weight Range Applicable to 3-Year Mandatory Minimum Term
s. 893.13(1)(c), F.S.	Opiates and opioids	4 grams	4 grams or more but less than 14 grams
s. 893.13(1)(d), F.S.	Phencyclidine	28 grams	28 grams or more but less than 200 grams
s. 893.13(1)(f), F.S.	Amphetamines	14 grams	14 grams or more but less than 28 grams
s. 893.13(1)(g), F.S.	Flunitrazepam	4 grams	4 grams or more but less than 14 grams
s. 893.13(1)(k), F.S.	Phenethylamines	10 grams	10 grams or more but less 200 grams
s. 893.13(1)(l), F.S.	Lysergic acid diethylamide (LSD)	1 gram	1 gram or more but less than 5 grams

The Criminal Punishment Code and Mandatory Minimum Terms

The Criminal Punishment Code (Code)⁷ is Florida’s framework or mechanism for determining permissible sentencing ranges for noncapital felonies. Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10). Points are assigned and accrue based upon the level ranking (sentence points escalate as the level escalates) assigned to the primary offense, additional offenses, and prior offenses. Points may be added or multiplied for other factors. For example, if the primary offense is drug trafficking, the subtotal sentence points are multiplied by 1.5, at the discretion of the court, for a Level 7 or Level 8 trafficking offense.⁸

Total sentence points are entered into a mathematical calculation (specified in statute) to determine the lowest permissible sentence. The permissible sentencing range primary offense is generally the lowest permissible sentence scored up to and including the maximum penalty provided under s. 775.082, F.S., for the primary offense. The court is permitted to impose sentences concurrently or consecutively.

The Code includes a list of ‘mitigating’ factors. If a mitigating factor is found by the sentencing court, the court may decrease an offender’s sentence below the lowest permissible sentence (a “downward departure”). However, a mandatory minimum term is not subject to these mitigating factors.⁹

Most of the mandatory minimum terms found in Florida law involve drug trafficking offenses. Mandatory minimum terms impact Code sentencing. “If the lowest permissible sentence is less than the mandatory minimum sentence, the mandatory minimum sentence takes precedence.”¹⁰

⁷Sections 921.002-921.0027, F.S.

⁸ Section 921.0024(1)(b), F.S.

⁹ See *State v. Vanderhoff*, 14 So.3d 1185 (Fla. 5th DCA 2009).

¹⁰ Rule 3.704(26) (“The Criminal Punishment Code”), Florida Rules of Criminal Procedure.

A mandatory minimum sentence is often longer than a prison sentence scored as the lowest permissible sentence under the Code, so the sentencing range is narrowed. Further, with few exceptions, the sentencing court must impose the mandatory minimum term.¹¹

III. Effect of Proposed Changes:

The bill amends s. 893.135, F.S., to provide that if a defendant is convicted of a violation of this section (drug trafficking), the defendant may move the sentencing court to depart from the 3-year mandatory minimum term of imprisonment and the mandatory fine that would apply to the conviction absent a departure. The state attorney may file an objection to the motion.

The court may grant the motion if the court finds that the defendant has demonstrated by a preponderance of the evidence¹² that all of the following criteria are met:

- The defendant has not previously moved to depart from a 3-year mandatory minimum term and mandatory fine.
- The defendant's violation of s. 893.135, F.S., would be subject to a 3-year mandatory minimum term and mandatory fine absent a departure.
- The defendant's violation of s. 893.135, F.S., involves possession of one of the following controlled substances or a mixture that contains the controlled substance:
 - Cocaine;
 - Hydrocodone;
 - Oxycodone;
 - Any controlled substance as described in s. 893.135(1)(c), F.S. (opiates and opioids);
 - Phencyclidine;
 - Amphetamine or Methamphetamine;
 - Flunitrazepam;
 - A phenethylamine as described in s. 893.135(1)(k)1., F.S.; or
 - Lysergic acid diethylamide (LSD).
- The defendant did not possess the controlled substance or mixture containing the controlled substance with the intent to sell, manufacture, or deliver the substance or mixture.
- The defendant did not obtain the controlled substance or mixture containing the controlled substance by using a minor to obtain the substance or mixture.
- In committing the violation of s. 893.135, F.S., the defendant did not possess or threaten to use a firearm or deadly weapon, or threaten to use or use physical force against another person.

¹¹ Staff found only two circumstances in which a sentencing court is authorized by law to impose a sentence below the mandatory minimum term. The first circumstance is when the court sentences a defendant as a youthful offender. Section 958.04, F.S. See *Christian v. State*, 84 So.3d 437 (Fla. 5th DCA 2012). The second circumstance is when the court grants a motion from the state attorney to reduce or suspend a sentence based upon substantial assistance rendered by the defendant. Section 893.135(4), F.S.

¹² "Preponderance of the evidence" is the same level of proof necessary to establish facts supporting the mitigation of a sentence under the Criminal Punishment Code. Section 921.002(1)(f), F.S. Similarly, each of the findings required as the basis for a habitual offender sentence must be found to exist by a preponderance of the evidence. Section 775.084(3)(a)4., F.S.

- The defendant does not have a previous conviction, adjudication of delinquency, or withhold of adjudication of guilt for a violation s. 893.135, F.S.
- The defendant does not have a previous conviction, adjudication of delinquency, or withhold of adjudication of guilt for a violation of s. 893.13, F.S., which involved the sale, manufacture, or delivery of a controlled substance, or the possession with intent to sell, manufacture, or deliver a controlled substance.
- The defendant is amenable to substance abuse treatment if the court determines that he or she is in need of such treatment.

The court's decision on how to dispose of the motion is completely discretionary. Therefore, the bill does not compel the court to grant the motion to depart even if the court finds that all of the criteria are met.

The bill takes effect on July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation has not yet reviewed CS/SB 328.

Staff notes that the court has complete discretion to grant or deny a motion to depart from the 3-year mandatory minimum term for a specified controlled substance even if the court finds that all criteria are met. Therefore, it may be difficult or impossible to project how many defendants would be granted a departure. The Legislature's Office of Economic and Demographic Research preliminary estimates that the bill will have an indeterminate

prison bed impact (no increase in prison beds but indeterminate to what extent, if any the bill would result in a need for fewer prison beds).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 893.135 of the Florida Statutes.

IX. Additional Information:

- A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal Justice on March 3, 2014:

- Authorizes a court to grant a defendant motion to depart from a 3-year mandatory minimum term and mandatory fine for trafficking in cocaine, certain opiates or opioids, phencyclidine, amphetamine, methamphetamine, flunitrazepam, phenethylamines, or lysergic acid diethylamide (LSD) if the court finds that the defendant has not previously moved for a departure, the offense involves simple possession, and other criteria are met.
- Authorizes the state attorney to object to the motion to depart.

- B. Amendments:

None.



915360

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/03/2014	.	
	.	
	.	
	.	

The Committee on Criminal Justice (Smith) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present subsection (7) of section 893.135,
Florida Statutes, is redesignated as subsection (8), and a new
subsection (7) is added to that section, to read:

893.135 Trafficking; mandatory sentences; suspension or
reduction of sentences; conspiracy to engage in trafficking.—

(7) (a) If a defendant is convicted of a violation of this



915360

section, the defendant may move the sentencing court to depart from the 3-year mandatory minimum term of imprisonment and the mandatory fine that would apply to the conviction absent a departure. The state attorney may file an objection to the motion.

(b) The court may grant the motion if the court finds that the defendant has demonstrated by a preponderance of the evidence that all of the following criteria are met:

1. The defendant has not previously moved to depart from a 3-year mandatory minimum term and mandatory fine pursuant to this subsection.

2. The defendant's violation of this section would be subject to a 3-year mandatory minimum term and mandatory fine absent a departure.

3. The defendant's violation of this section involves possession of one of the following controlled substances or a mixture that contains the controlled substance:

a. Cocaine;

b. Hydrocodone;

c. Oxycodone;

d. Any controlled substance as described in paragraph (1) (c);

e. Phencyclidine;

f. Amphetamine or Methamphetamine;

g. Flunitrazepam;

h. A phenethylamine as described in subparagraph (1) (k) 1.;

or

i. Lysergic acid diethylamide (LSD).

4. The defendant did not possess the controlled substance



915360

or mixture containing the controlled substance with the intent to sell, manufacture, or deliver the substance or mixture.

5. The defendant did not obtain the controlled substance or mixture containing the controlled substance by using a minor to obtain the substance or mixture.

6. In committing the violation of this section, the defendant did not possess or threaten to use a firearm or deadly weapon, or threaten to use or use physical force against another person.

7. The defendant does not have a previous conviction, adjudication of delinquency, or withhold of adjudication of guilt for a violation this section.

8. The defendant does not have a previous conviction, adjudication of delinquency, or withhold of adjudication of guilt for a violation of s. 893.13 which involved the sale, manufacture, or delivery of a controlled substance, or the possession with intent to sell, manufacture, or deliver a controlled substance.

9. The defendant is amenable to substance abuse treatment if the court determines that he or she is in need of such treatment.

Section 2. This act shall take effect July 1, 2014.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to controlled substances; amending s.



915360

69 893.135, F.S.; authorizing a defendant to move to
70 depart from the mandatory term of imprisonment for a
71 drug trafficking violation; authorizing the state
72 attorney to file an objection to the motion;
73 authorizing the sentencing court to grant the motion
74 if the court finds that the defendant has demonstrated
75 by a preponderance of the evidence that specified
76 criteria are met; providing an effective date.

By Senator Joyner

19-00248A-14

2014328__

A bill to be entitled

An act relating to trafficking in illegal drugs; amending s. 893.135, F.S.; providing that a specified mandatory minimum term of imprisonment and a specified fine no longer apply upon a first conviction of a person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, a specified quantity of certain designated illegal drugs; providing that a specified mandatory minimum term of imprisonment and specified fine apply upon a second or subsequent conviction; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraphs (b), (c), (d), (f), (g), (k), and (l) of subsection (1) of section 893.135, Florida Statutes, are amended to read:

893.135 Trafficking; mandatory sentences; suspension or reduction of sentences; conspiracy to engage in trafficking.—

(1) Except as authorized in this chapter or in chapter 499 and notwithstanding the provisions of s. 893.13:

(b)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of cocaine, as described in s. 893.03(2)(a)4., or of any mixture containing cocaine, but less than 150 kilograms of cocaine or any such mixture, commits a felony of the first

Page 1 of 12

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19-00248A-14

2014328__

degree, which felony shall be known as "trafficking in cocaine," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 28 grams or more, but less than 200 grams, such person shall be sentenced, upon a second or subsequent conviction, to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of \$50,000.

b. Is 200 grams or more, but less than 400 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of \$100,000.

c. Is 400 grams or more, but less than 150 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of \$250,000.

2. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 150 kilograms or more of cocaine, as described in s. 893.03(2)(a)4., commits the first degree felony of trafficking in cocaine. A person who has been convicted of the first degree felony of trafficking in cocaine under this subparagraph shall be punished by life imprisonment and is ineligible for any form of discretionary early release except pardon or executive clemency or conditional medical release under s. 947.149. However, if the court determines that, in addition to committing any act specified in this paragraph:

a. The person intentionally killed an individual or counseled, commanded, induced, procured, or caused the intentional killing of an individual and such killing was the

Page 2 of 12

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19-00248A-14

2014328__

59 result; or

60 b. The person's conduct in committing that act led to a
61 natural, though not inevitable, lethal result,

62
63 such person commits the capital felony of trafficking in
64 cocaine, punishable as provided in ss. 775.082 and 921.142. Any
65 person sentenced for a capital felony under this paragraph shall
66 also be sentenced to pay the maximum fine provided under
67 subparagraph 1.

68 3. Any person who knowingly brings into this state 300
69 kilograms or more of cocaine, as described in s. 893.03(2)(a)4.,
70 and who knows that the probable result of such importation would
71 be the death of any person, commits capital importation of
72 cocaine, a capital felony punishable as provided in ss. 775.082
73 and 921.142. Any person sentenced for a capital felony under
74 this paragraph shall also be sentenced to pay the maximum fine
75 provided under subparagraph 1.

76 (c)1. Any person who knowingly sells, purchases,
77 manufactures, delivers, or brings into this state, or who is
78 knowingly in actual or constructive possession of, 4 grams or
79 more of any morphine, opium, oxycodone, hydrocodone,
80 hydromorphone, or any salt, derivative, isomer, or salt of an
81 isomer thereof, including heroin, as described in s.
82 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 4 grams or more
83 of any mixture containing any such substance, but less than 30
84 kilograms of such substance or mixture, commits a felony of the
85 first degree, which felony shall be known as "trafficking in
86 illegal drugs," punishable as provided in s. 775.082, s.
87 775.083, or s. 775.084. If the quantity involved:

Page 3 of 12

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19-00248A-14

2014328__

88 a. Is 4 grams or more, but less than 14 grams, such person
89 shall be sentenced, upon a second or subsequent conviction, to a
90 mandatory minimum term of imprisonment of 3 years, and the
91 defendant shall be ordered to pay a fine of \$50,000.

92 b. Is 14 grams or more, but less than 28 grams, such person
93 shall be sentenced to a mandatory minimum term of imprisonment
94 of 15 years, and the defendant shall be ordered to pay a fine of
95 \$100,000.

96 c. Is 28 grams or more, but less than 30 kilograms, such
97 person shall be sentenced to a mandatory minimum term of
98 imprisonment of 25 calendar years and pay a fine of \$500,000.

99 2. Any person who knowingly sells, purchases, manufactures,
100 delivers, or brings into this state, or who is knowingly in
101 actual or constructive possession of, 30 kilograms or more of
102 any morphine, opium, oxycodone, hydrocodone, hydromorphone, or
103 any salt, derivative, isomer, or salt of an isomer thereof,
104 including heroin, as described in s. 893.03(1)(b), (2)(a),
105 (3)(c)3., or (3)(c)4., or 30 kilograms or more of any mixture
106 containing any such substance, commits the first degree felony
107 of trafficking in illegal drugs. A person who has been convicted
108 of the first degree felony of trafficking in illegal drugs under
109 this subparagraph shall be punished by life imprisonment and is
110 ineligible for any form of discretionary early release except
111 pardon or executive clemency or conditional medical release
112 under s. 947.149. However, if the court determines that, in
113 addition to committing any act specified in this paragraph:

114 a. The person intentionally killed an individual or
115 counseled, commanded, induced, procured, or caused the
116 intentional killing of an individual and such killing was the

Page 4 of 12

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19-00248A-14

2014328__

117 result; or

118 b. The person's conduct in committing that act led to a
119 natural, though not inevitable, lethal result,

120
121 such person commits the capital felony of trafficking in illegal
122 drugs, punishable as provided in ss. 775.082 and 921.142. Any
123 person sentenced for a capital felony under this paragraph shall
124 also be sentenced to pay the maximum fine provided under
125 subparagraph 1.

126 3. Any person who knowingly brings into this state 60
127 kilograms or more of any morphine, opium, oxycodone,
128 hydrocodone, hydromorphone, or any salt, derivative, isomer, or
129 salt of an isomer thereof, including heroin, as described in s.
130 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 60 kilograms or
131 more of any mixture containing any such substance, and who knows
132 that the probable result of such importation would be the death
133 of any person, commits capital importation of illegal drugs, a
134 capital felony punishable as provided in ss. 775.082 and
135 921.142. Any person sentenced for a capital felony under this
136 paragraph shall also be sentenced to pay the maximum fine
137 provided under subparagraph 1.

138 (d)1. Any person who knowingly sells, purchases,
139 manufactures, delivers, or brings into this state, or who is
140 knowingly in actual or constructive possession of, 28 grams or
141 more of phencyclidine or of any mixture containing
142 phencyclidine, as described in s. 893.03(2)(b), commits a felony
143 of the first degree, which felony shall be known as "trafficking
144 in phencyclidine," punishable as provided in s. 775.082, s.
145 775.083, or s. 775.084. If the quantity involved:

Page 5 of 12

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19-00248A-14

2014328__

146 a. Is 28 grams or more, but less than 200 grams, such
147 person shall be sentenced, upon a second or subsequent
148 conviction, to a mandatory minimum term of imprisonment of 3
149 years, and the defendant shall be ordered to pay a fine of
150 \$50,000.

151 b. Is 200 grams or more, but less than 400 grams, such
152 person shall be sentenced to a mandatory minimum term of
153 imprisonment of 7 years, and the defendant shall be ordered to
154 pay a fine of \$100,000.

155 c. Is 400 grams or more, such person shall be sentenced to
156 a mandatory minimum term of imprisonment of 15 calendar years
157 and pay a fine of \$250,000.

158 2. Any person who knowingly brings into this state 800
159 grams or more of phencyclidine or of any mixture containing
160 phencyclidine, as described in s. 893.03(2)(b), and who knows
161 that the probable result of such importation would be the death
162 of any person commits capital importation of phencyclidine, a
163 capital felony punishable as provided in ss. 775.082 and
164 921.142. Any person sentenced for a capital felony under this
165 paragraph shall also be sentenced to pay the maximum fine
166 provided under subparagraph 1.

167 (f)1. Any person who knowingly sells, purchases,
168 manufactures, delivers, or brings into this state, or who is
169 knowingly in actual or constructive possession of, 14 grams or
170 more of amphetamine, as described in s. 893.03(2)(c)2., or
171 methamphetamine, as described in s. 893.03(2)(c)4., or of any
172 mixture containing amphetamine or methamphetamine, or
173 phenylacetone, phenylacetic acid, pseudoephedrine, or ephedrine
174 in conjunction with other chemicals and equipment utilized in

Page 6 of 12

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19-00248A-14

2014328__

the manufacture of amphetamine or methamphetamine, commits a felony of the first degree, which felony shall be known as "trafficking in amphetamine," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 14 grams or more, but less than 28 grams, such person shall be sentenced, upon a second or subsequent conviction, to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of \$50,000.

b. Is 28 grams or more, but less than 200 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of \$100,000.

c. Is 200 grams or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of \$250,000.

2. Any person who knowingly manufactures or brings into this state 400 grams or more of amphetamine, as described in s. 893.03(2)(c)2., or methamphetamine, as described in s. 893.03(2)(c)4., or of any mixture containing amphetamine or methamphetamine, or phenylacetone, phenylacetic acid, pseudoephedrine, or ephedrine in conjunction with other chemicals and equipment used in the manufacture of amphetamine or methamphetamine, and who knows that the probable result of such manufacture or importation would be the death of any person commits capital manufacture or importation of amphetamine, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

Page 7 of 12

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19-00248A-14

2014328__

(g)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 4 grams or more of flunitrazepam or any mixture containing flunitrazepam as described in s. 893.03(1)(a) commits a felony of the first degree, which felony shall be known as "trafficking in flunitrazepam," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 4 grams or more but less than 14 grams, such person shall be sentenced, upon a second or subsequent conviction, to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of \$50,000.

b. Is 14 grams or more but less than 28 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of \$100,000.

c. Is 28 grams or more but less than 30 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 calendar years and pay a fine of \$500,000.

2. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state or who is knowingly in actual or constructive possession of 30 kilograms or more of flunitrazepam or any mixture containing flunitrazepam as described in s. 893.03(1)(a) commits the first degree felony of trafficking in flunitrazepam. A person who has been convicted of the first degree felony of trafficking in flunitrazepam under this subparagraph shall be punished by life imprisonment and is ineligible for any form of discretionary early release except pardon or executive clemency or conditional medical release

Page 8 of 12

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19-00248A-14

2014328__

under s. 947.149. However, if the court determines that, in addition to committing any act specified in this paragraph:

a. The person intentionally killed an individual or counseled, commanded, induced, procured, or caused the intentional killing of an individual and such killing was the result; or

b. The person's conduct in committing that act led to a natural, though not inevitable, lethal result,

such person commits the capital felony of trafficking in flunitrazepam, punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(k)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 10 grams or more of any of the following substances described in s. 893.03(1)(c):

- a. 3,4-Methylenedioxymethamphetamine (MDMA);
- b. 4-Bromo-2,5-dimethoxyamphetamine;
- c. 4-Bromo-2,5-dimethoxyphenethylamine;
- d. 2,5-Dimethoxyamphetamine;
- e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
- f. N-ethylamphetamine;
- g. N-Hydroxy-3,4-methylenedioxymphetamine;
- h. 5-Methoxy-3,4-methylenedioxymphetamine;
- i. 4-methoxyamphetamine;
- j. 4-methoxymethamphetamine;

19-00248A-14

2014328__

k. 4-Methyl-2,5-dimethoxyamphetamine;

l. 3,4-Methylenedioxy-N-ethylamphetamine;

m. 3,4-Methylenedioxyamphetamine;

n. N,N-dimethylamphetamine; or

o. 3,4,5-Trimethoxyamphetamine,

individually or in any combination of or any mixture containing any substance listed in sub-subparagraphs a.-o., commits a felony of the first degree, which felony shall be known as "trafficking in Phenethylamines," punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. If the quantity involved:

a. Is 10 grams or more but less than 200 grams, such person shall be sentenced, upon a second or subsequent conviction, to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of \$50,000.

b. Is 200 grams or more, but less than 400 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of \$100,000.

c. Is 400 grams or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of \$250,000.

3. Any person who knowingly manufactures or brings into this state 30 kilograms or more of any of the following substances described in s. 893.03(1)(c):

- a. 3,4-Methylenedioxymethamphetamine (MDMA);
- b. 4-Bromo-2,5-dimethoxyamphetamine;
- c. 4-Bromo-2,5-dimethoxyphenethylamine;

19-00248A-14

2014328__

291 d. 2,5-Dimethoxyamphetamine;
 292 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
 293 f. N-ethylamphetamine;
 294 g. N-Hydroxy-3,4-methylenedioxyamphetamine;
 295 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
 296 i. 4-methoxyamphetamine;
 297 j. 4-methoxymethamphetamine;
 298 k. 4-Methyl-2,5-dimethoxyamphetamine;
 299 l. 3,4-Methylenedioxy-N-ethylamphetamine;
 300 m. 3,4-Methylenedioxyamphetamine;
 301 n. N,N-dimethylamphetamine; or
 302 o. 3,4,5-Trimethoxyamphetamine,
 303
 304 individually or in any combination of or any mixture containing
 305 any substance listed in sub-subparagraphs a.-o., and who knows
 306 that the probable result of such manufacture or importation
 307 would be the death of any person commits capital manufacture or
 308 importation of Phenethylamines, a capital felony punishable as
 309 provided in ss. 775.082 and 921.142. Any person sentenced for a
 310 capital felony under this paragraph shall also be sentenced to
 311 pay the maximum fine provided under subparagraph 1.
 312 (1)1. Any person who knowingly sells, purchases,
 313 manufactures, delivers, or brings into this state, or who is
 314 knowingly in actual or constructive possession of, 1 gram or
 315 more of lysergic acid diethylamide (LSD) as described in s.
 316 893.03(1)(c), or of any mixture containing lysergic acid
 317 diethylamide (LSD), commits a felony of the first degree, which
 318 felony shall be known as "trafficking in lysergic acid
 319 diethylamide (LSD)," punishable as provided in s. 775.082, s.

Page 11 of 12

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19-00248A-14

2014328__

320 775.083, or s. 775.084. If the quantity involved:
 321 a. Is 1 gram or more, but less than 5 grams, such person
 322 shall be sentenced, upon a second or subsequent conviction, to a
 323 mandatory minimum term of imprisonment of 3 years, and the
 324 defendant shall be ordered to pay a fine of \$50,000.
 325 b. Is 5 grams or more, but less than 7 grams, such person
 326 shall be sentenced to a mandatory minimum term of imprisonment
 327 of 7 years, and the defendant shall be ordered to pay a fine of
 328 \$100,000.
 329 c. Is 7 grams or more, such person shall be sentenced to a
 330 mandatory minimum term of imprisonment of 15 calendar years and
 331 pay a fine of \$500,000.
 332 2. Any person who knowingly manufactures or brings into
 333 this state 7 grams or more of lysergic acid diethylamide (LSD)
 334 as described in s. 893.03(1)(c), or any mixture containing
 335 lysergic acid diethylamide (LSD), and who knows that the
 336 probable result of such manufacture or importation would be the
 337 death of any person commits capital manufacture or importation
 338 of lysergic acid diethylamide (LSD), a capital felony punishable
 339 as provided in ss. 775.082 and 921.142. Any person sentenced for
 340 a capital felony under this paragraph shall also be sentenced to
 341 pay the maximum fine provided under subparagraph 1.
 342 Section 2. This act shall take effect July 1, 2014.

Page 12 of 12

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

March 3, 2014

Meeting Date

Topic Possession of Small Amounts of Drugs —
~~Possession of Drugs~~ First offenders

Bill Number 328
(if applicable)

Name Honorable Nancy Daniels

Amendment Barcode _____
(if applicable)

Job Title Public Defender, 2nd Judicial Circuit

Address 301 S. Monroe Street

Phone 352-338-7370

Street

Tallahassee

Florida

32301

City

State

Zip

E-mail nancy.daniels@flpd2.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Public Defender Association, Inc

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3 / 3 / 2014

Meeting Date

Topic _____

Bill Number 328

(if applicable)

Name BRIAN PITTS

Amendment Barcode _____

(if applicable)

Job Title TRUSTEE

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Street

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City

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State

33705

Zip

Phone 727-897-9291

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/3/14
Meeting Date

Topic Drug Trafficking

Bill Number SB 328
(if applicable)

Name David Aronberg

Amendment Barcode _____
(if applicable)

Job Title State Attorney Palm Beach County

Address ~~Court House~~ 401 N Dixie Hwy
Street
W Palm Beach FL 33401
City State Zip

Phone 561-355-7246

E-mail _____

Speaking: ☐ For ☒ Against ☐ Information

Representing Fla. Prosecuting Attorneys Assoc

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/3/14

Meeting Date

Topic Trafficking illegal Drugs

Bill Number 328

(if applicable)

Name John Rutherford

Amendment Barcode _____

(if applicable)

Job Title Deval County Sheriff

Address _____
Street

Phone _____

City _____ State _____ Zip _____

E-mail _____

Speaking: ☐ For ☒ Against ☐ Information

Representing FL Sheriffs Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 328

INTRODUCER: Senator Joyner

SUBJECT: Trafficking in Illegal Drugs

DATE: February 6, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson <i>ME</i>	Cannon <i>MC</i>	CJ	Pre-meeting
2.	_____	_____	JU	_____
3.	_____	_____	RC	_____

I. Summary:

SB 328 precludes imposing the 3-year mandatory minimum term and mandatory fine for a first conviction for trafficking in cocaine, certain opiates or opioids, phencyclidine, amphetamine, methamphetamine, flunitrazepam, phenethylamines, and lysergic acid diethylamide (LSD). Under current law, possession, sale, etc., of relatively small quantities of any of these substances triggers drug trafficking penalties.

The 3-year term and fine only apply if the defendant has previously been convicted of trafficking in the same controlled substance. For example, if the defendant is convicted of trafficking in cocaine and has previously been convicted of trafficking in cocaine, the 3-year term and fine apply.

II. Present Situation:

Drug Trafficking

Unlawful activities involving controlled substances (e.g., possession or sale of controlled substances) are punishable under s. 893.13, F.S. (prohibited acts involving controlled substances), and s. 893.135, F.S. (drug trafficking). "Drug trafficking" consists of knowingly selling, purchasing, manufacturing, delivering, or bringing into this state, or knowingly being in actual or constructive possession¹ of, certain controlled substances in a statutorily-specified quantity.

Whether a person is charged with drug trafficking depends, in part, on the type of controlled substance possessed, sold, etc. Only a limited number of controlled substances are covered under

¹ One important and unique feature of the drug trafficking statute is that the prosecutor is not required to prove that the possession of the controlled substance was with the intent to sell, deliver, manufacture, etc., the substance.

s. 893.135, F.S. Relevant to the bill, s. 893.135, F.S., covers cocaine, certain opiates² or opioids,³ phencyclidine, amphetamine, methamphetamine, flunitrazepam, phenethylamines,⁴ and lysergic acid diethylamide (LSD).

The quantity of a covered controlled substance must also meet a minimum weight threshold prescribed in s. 893.135, F.S. Most drug trafficking offenses are first degree felonies⁵ and are subject to mandatory minimum terms.⁶ Section 893.135, F.S., establishes escalating weight ranges. The mandatory minimum term applicable to a drug trafficking act depends upon which weight range is applicable to the quantity of the controlled substance possessed, sold, etc. In some cases, possession, sale, etc., of a relatively small quantity of a covered controlled substance will trigger drug trafficking penalties.

Relevant to the bill, the shortest mandatory minimum term available under s. 893.135, F.S., is a 3-year mandatory minimum term. Provided are the threshold weights that trigger drug trafficking penalties and the weight ranges applicable to a 3-year mandatory minimum term for a covered controlled substance.

Statutory Reference	Covered Substance	Threshold Weight	Weight Range Applicable to 3-Year Mandatory Minimum Term
s. 893.13(1)(a), F.S.	Cannabis	More than 25 pounds (may also be triggered by specified number of plants, regardless of weight)	More than 25 pounds but less than 2,000 pounds
s. 893.13(1)(b), F.S.	Cocaine	28 grams	28 grams or more but less than 200 grams
s. 893.13(1)(c), F.S.	Opiates and opioids	4 grams	4 grams or more but less than 14 grams
s. 893.13(1)(d), F.S.	Phencyclidine	28 grams	28 grams or more but less than 200 grams
s. 893.13(1)(e), F.S.	Methaqualone	200 grams	200 grams or more but less than 5 kilograms
s. 893.13(1)(f), F.S.	Amphetamines	14 grams	14 grams or more but less than 28 grams

² Examples of opiates are opium and morphine.

³ Examples of opioids are heroin, oxycodone, hydrocodone, and hydromorphone.

⁴ “Phenethylamines” is a ‘broad’ category of “psychoactive substances[.]” Sanders B., Lankenau S.E., Bloom J.J., Hathazi D. “‘Research chemicals’: tryptamine and phenethylamine use among high-risk youth. Substance Use & Misuse.” 2008; 43(3-4): 389–402. This article is available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2536767/> (last visited on January 16, 2014). Probably the most well-known phenethylamine is 3,4-Methylenedioxymethamphetamine (MDMA), which is often referred to by the street name “Ecstasy.”

⁵ A first degree felony is generally punishable by up to 30 years in state prison. Section 775.082, F.S. Repeat offender sanctions may be available under ss. 775.082 and 775.084, F.S.

⁶ Most drug offenses under s. 893.13, F.S., are not subject to mandatory minimum terms.

Statutory Reference	Covered Substance	Threshold Weight	Weight Range Applicable to 3-Year Mandatory Minimum Term
s. 893.13(1)(g), F.S.	Flunitrazepam	4 grams	4 grams or more but less than 14 grams
s. 893.13(1)(h), F.S.	Gamma-hydroxybutyric acid (GHB)	1 kilogram	1 kilogram or more but less 5 kilograms
s. 893.13(1)(i), F.S.	Gamma-butyrolactone (GBL)	1 kilogram	1 kilogram or more but less 5 kilograms
s. 893.13(1)(j), F.S.	1,4-Butanediol	1 kilogram	1 kilogram or more but less 5 kilograms
s. 893.13(1)(k), F.S.	Phenethylamines	10 grams	10 grams or more but less 200 grams
s. 893.13(1)(l), F.S.	Lysergic acid diethylamide (LSD)	1 gram	1 gram or more but less than 5 grams

The Criminal Punishment Code and Mandatory Minimum Terms

The Criminal Punishment Code (Code)⁷ is Florida's framework or mechanism for determining permissible sentencing ranges for noncapital felonies. Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10). Points are assigned and accrue based upon the level ranking (sentence points escalate as the level escalates) assigned to the primary offense, additional offenses, and prior offenses. Points may be added or multiplied for other factors. For example, if the primary offense is drug trafficking, the subtotal sentence points are multiplied by 1.5, at the discretion of the court, for a Level 7 or Level 8 trafficking offense.⁸

Total sentence points are entered into a mathematical calculation (specified in statute) to determine the lowest permissible sentence. The permissible sentencing range primary offense is generally the lowest permissible sentence scored up to and including the maximum penalty provided under s. 775.082, F.S., for the primary offense. The court is permitted to impose sentences concurrently or consecutively.

The Code includes a list of 'mitigating' factors. If a mitigating factor is found by the sentencing court, the court may decrease an offender's sentence below the lowest permissible sentence (a "downward departure"). However, a mandatory minimum term is not subject to these mitigating factors.⁹

⁷Sections 921.002-921.0027, F.S.

⁸ Section 921.0024(1)(b), F.S.

⁹ See *State v. Vanderhoff*, 14 So.3d 1185 (Fla. 5th DCA 2009).

Most of the mandatory minimum terms found in Florida law involve drug trafficking offenses. Mandatory minimum terms impact Code sentencing. “If the lowest permissible sentence is less than the mandatory minimum sentence, the mandatory minimum sentence takes precedence.”¹⁰

A mandatory minimum sentence is often longer than a prison sentence scored as the lowest permissible sentence under the Code, so the sentencing range is narrowed. Further, with few exceptions, the sentencing court must impose the mandatory minimum term.¹¹

III. Effect of Proposed Changes:

The bill amends s. 893.135, F.S., to preclude imposing the 3-year mandatory minimum term and mandatory fine for a first conviction for trafficking in cocaine, certain opiates or opioids, phencyclidine, amphetamine, methamphetamine, flunitrazepam, phenethylamines, and lysergic acid diethylamide (LSD). Under current law, possession, sale, etc., of relatively small quantities of any of these substances triggers drug trafficking penalties.

The 3-year term and fine only apply if the defendant has previously been convicted of trafficking in the same controlled substance. For example, if the defendant is convicted of trafficking in cocaine and has previously been convicted of trafficking in cocaine, the 3-year term and fine apply.

The bill only impacts the 3-year mandatory minimum term and fine for trafficking in any of the substances specified in the bill.

The bill takes effect on July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁰ Rule 3.704(26) (“The Criminal Punishment Code”), Florida Rules of Criminal Procedure.

¹¹ Staff found only two circumstances in which a sentencing court is authorized by law to impose a sentence below the mandatory minimum term. The first circumstance is when the court sentences a defendant as a youthful offender. Section 958.04, F.S. *See Christian v. State*, 84 So.3d 437 (Fla. 5th DCA 2012). The second circumstance is when the court grants a motion from the state attorney to reduce or suspend a sentence based upon substantial assistance rendered by the defendant. Section 893.135(4), F.S.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation estimates that the bill will result in 456 fewer prison beds by FY 2018-19 with a projected cost savings of \$11,003,567 in operating costs and \$20,512,926 in fixed capital outlay costs.¹²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 893.135 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹² See 2014 Criminal Justice Impact Conference results at <http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/index.cfm> (last viewed on February 6, 2014).

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: CS/SB 780

INTRODUCER: Criminal Justice Committee and Senator Bradley

SUBJECT: Controlled Substances

DATE: March 3, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Cannon	CJ	Fav/CS
2.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 780 adds 4 new synthetic cannabinoids and two new synthetic phenethylamines (hallucinogenic substances) to the list of Schedule I controlled substances.

The bill also adds 3 chemical substances to the provision of the trafficking statute that punishes trafficking in phenethylamines. These chemical substances are currently Schedule I controlled substances that are most commonly found in the street drug “Molly.”

The bill also amends the trafficking in phenethylamines provision to specify that it applies to analogs or isomers of any listed phenethylamine.

II. Present Situation:

Schedule I Controlled Substances

A substance is a “controlled substance” if it is listed in any of 5 schedules in s. 893.03, F.S. The particular scheduling determines penalties that may be imposed for unlawful possession, sale, etc., and the conditions under which the substance can be legally possessed, prescribed, sold, etc. Relevant to the bill, a substance in Schedule I is considered to have a high potential for abuse¹

¹ “Potential for abuse” means that a substance has properties of a central nervous system stimulant or depressant or an hallucinogen that create a substantial likelihood of its being: (a) Used in amounts that create a hazard to the user’s health or the safety of the community; (b) Diverted from legal channels and distributed through illegal channels; or (c) Taken on the user’s own initiative rather than on the basis of professional medical advice. Section 893.02(20), F.S.

and no currently accepted medical use in treatment in the United States and, in its use under medical supervision, does not meet accepted safety standards.²

As a result of legislation that became law in 2011, 2012, and 2013, there are several synthetic cannabinoids,³ cathinones,⁴ and phenethylamines⁵ listed as Schedule I controlled substances in s. 893.03(1)(c), F.S.⁶

Non-Trafficking Controlled Substance Offenses

Unlawful activities involving controlled substances (e.g., possession or sale of controlled substances) are punishable under s. 893.13, F.S. (prohibited acts involving controlled substances),⁷ and s. 893.135, F.S. (drug trafficking). Only certain controlled substances sold, etc., in a trafficking quantity are subject to s. 893.13, F.S.

Several synthetic cannabinoids, cathinones, and phenethylamines are listed as Schedule I controlled substances under s. 893.03(1)(c), F.S. Selling, manufacturing, or delivering, or possessing with intent to sell, manufacture or deliver, a controlled substance listed in s. 893.03(1)(c), F.S., is a third degree felony.⁸ However, if any of these acts are committed within 1,000 feet of certain designated places, the felony degree and penalties are greater.⁹ For example, selling a controlled substance listed in s. 893.03(1)(c), F.S., within 1,000 feet of the real property of a child care facility or secondary school is a second degree felony.¹⁰

² Section 893.03(1), F.S.

³ “Synthetic Cannabinoids are chemicals that act as cannabinoid receptor agonists. Chemically they are not similar to cannabinoids but the term ‘Synthetic Cannabinoids’ or ‘Cannabinomimetics’ is widely used to refer to them as they are cannabinoid-like in their activity.” “Synthetic Cannabinoid Drug Information,” Redwood Toxicology Laboratory, https://www.redwoodtoxicology.com/resources/drug_info/synthetic_cannabinoids (last viewed on Feb. 25, 2014).

⁴ Cathinone is a Schedule I controlled substance. Section 893.03(1)(c)8., F.S. Cathinone is an alkaloid found in the shrub *Catha edulis* (khat) and is chemically similar to amphetamines and other substances. “Consideration of the cathinones” (March 2010), Advisory Council on the Misuse of Drugs, United Kingdom, available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/119173/acmd-cathinones-report-2010.pdf (last viewed on Feb. 25, 2014). The “molecular architecture” of cathinone “can be altered to produce a series of different compounds which are closely structurally related to cathinone.” *Id.* at p. 6.

⁵ “Phenethylamines” is a broad category of “psychoactive substances” Sanders B., Lankenau S.E., Bloom J.J., Hathazi D. “Research chemicals”: Tryptamine and Phenethylamine Use Among High Risk Youth,” *Substance Use & Misuse* (2008), Vol. 43, No. 3-4, Pages 389-402, available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2536767/> (last viewed on Feb. 25, 2014). Probably the most well-known phenethylamine is 3,4-Methylenedioxymethamphetamine (MDMA), which is often referred to by the street name “Ecstasy.”

⁶ Chapters 2011-73, 2011-90, 2012-23, and 2013-29, L.O.F.

⁷ Section 893.13(9), F.S., provides an exception to the unlawful acts specified in s. 893.13(1)-(8), F.S., for delivery to, or actual or constructive possession for medical or scientific use or purpose only of controlled substances by, persons included in classes specified in this subsection, or the agents or employees of those persons, for use in the usual course of their business or profession or in the performance of their official duties.

⁸ Section 893.13(1)(a)2., F.S. A third degree felony is punishable by up to 5 years in state prison, a fine of up to \$5,000, or both. Sections 775.082 and 775.083, F.S. However, if total sentence points scored under the Criminal Punishment Code are 22 points or fewer, the court must impose a nonstate prison sanction, unless the court makes written findings that this sanction could present a danger to the public. Section 775.082(10), F.S.

⁹ Section 893.13(1)(c)-(f) and (h), F.S.

¹⁰ Section 893.13(1)(c)2., F.S. A second degree felony is punishable by up to 15 years in state prison, a fine of up to \$10,000, or both. Sections 775.082 and 775.083, F.S.

Purchasing, or possessing with intent to purchase, a controlled substance listed in s. 893.13(1)(c), F.S., is a third degree felony.¹¹

Possessing 3 grams or less of a synthetic cannabinoid listed in s. 893.03(1)(c)46.-50., 114.-142., 151.-159, or 166.-169., F.S., is a first degree misdemeanor.¹² Possessing more than 3 grams of any of these synthetic cannabinoids or any amount of any other substance listed in s. 893.03(1)(c), F.S., is a third degree felony.¹³

Drug Trafficking

“Drug trafficking” consists of knowingly selling, purchasing, manufacturing, delivering, or bringing into this state, or knowingly being in actual or constructive possession of, certain controlled substances in a statutorily-specified quantity.

Whether a person is charged with drug trafficking depends, in part, on the type of controlled substance possessed, sold, etc. Only a limited number of controlled substances are covered under s. 893.135, F.S. Relevant to the bill, s. 893.135(1)(k), F.S., currently punishes trafficking in phenethylamines.

The quantity of a covered controlled substance must also meet a minimum weight threshold prescribed in s. 893.135, F.S. Most drug trafficking offenses are first degree felonies and are subject to mandatory minimum terms. Section 893.135, F.S., establishes escalating weight ranges. The mandatory minimum term applicable to a drug trafficking act depends upon which weight range is applicable to the quantity of the controlled substance possessed, sold, etc.

Section 893.135(1)(k), F.S., provides that it is a first degree felony¹⁴ to traffic in a listed phenethylamine or combination or mixture containing a listed phenethylamine. If the quantity involved is:

- 10 grams or more, but less than 200 grams, the violator is sentenced to a 3-year mandatory minimum term of imprisonment and a mandatory fine of \$50,000;
- 200 grams or more, but less than 400 grams, the violator is sentenced to a 7-year mandatory minimum term of imprisonment and a mandatory fine of \$100,000; or
- 400 grams or more, the violator is sentenced to a 15-year mandatory minimum term of imprisonment and a mandatory fine of \$250,000.

It is a capital felony¹⁵ to knowingly manufacture or bring into this state 30 kilograms or more of a listed phenethylamine or combination or mixture containing a listed phenethylamine if the violator knows that the probable result of the manufacture or importation would be the death of

¹¹ Section 893.13(2)(a)2., F.S.

¹² Section 893.13(6)(b), F.S. A first degree misdemeanor is punishable by up to a year in jail, a fine of up to \$1,000, or both. Sections 775.082 and 775.083, F.S.

¹³ Section 893.13(6)(a), F.S.

¹⁴ A first degree felony is generally punishable by up to 30 years in state prison. Section 775.082, F.S. Repeat offender sanctions may be available under ss. 775.082 and 775.084, F.S.

¹⁵ A capital felony is punishable by life imprisonment or death. Section 775.082, F.S. See s. 921.142, F.S. (further proceedings to determine sentence for capital trafficking felonies).

any person. In addition to life imprisonment or a death sentence, there is a mandatory fine of \$250,000.

Florida Department of Law Enforcement Analysis of Chemical Substances Added or Scheduled by the Bill

The Florida Department of Law Enforcement (FDLE) has provided the following information relevant to the chemical substances added or scheduled by the bill:

The proposed chemical substances to be added to Section 893.03 are currently being seen and abused throughout the State of Florida as an alternative to traditional illicit substances used to alter users' mental faculties or to obtain a "high." The proposed list of Schedule I additions are substances that have no legitimate medical use and have a high potential for abuse. Under the current statute, state and local law enforcement agencies were unable to intercede in cases involving any of the proposed chemical substances, thus creating an environment where individuals are able to possess, distribute, and/or use harmful substances without fear of intervention by state and local law enforcement. On October 9, 2013, four of the six substances in the bill were scheduled by Attorney General Pam Bondi in an emergency rule, temporarily making them controlled substances for criminal purposes. The emergency rule expires on June 30 (or sooner if supplanted by a superseding statutory amendment).

In addition, on November 15, 2013, the U.S. Department of Justice, Drug Enforcement Administration (DEA) federally scheduled two new synthetic phenethylamines in 21 CFR Part 1308 that are currently not scheduled as controlled substances in Florida. These new hallucinogenic compounds are 25B-NBOMe (4-bromo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine) and 2C-C-NBOMe(4-chloro-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine). DEA reports that the abuse of these substances can cause severe toxic reactions, including death. According to DEA, reports from medical examiners and toxicology laboratories link some combination of 25I-NBOMe (currently scheduled in Florida), 25C-NBOMe, and 25B-NBOMe to the death of at least nineteen individuals in the U.S., between the ages of 15 and 29 years old, during the period of March 2012 to August 2013. Adding these two new synthetic phenethylamines substances as schedule I drugs will align Florida law with the current DEA scheduling of said substances.

Generally, "Molly" (short for "molecule") is illicitly marketed as a pure form of "Ecstasy" (MDMA or 3,4-Methylenedioxymethamphetamine). Intelligence suggests the true chemical makeup of "Molly" varies depending on manufacturer, dealer, and location. In Florida, "Molly" is most often composed of Methylone (3,4-methylenedioxymethcathinone), 3,4-Methylenedioxypyrovalerone (MDPV), and Methylmethcathinone, which are sold as "bath salts" compounds and are similar in chemical structure to "Ecstasy." These substances pose significant health risks to users. These substances are commonly imported from overseas via the Internet and are

purchased for use in the U.S., particularly with intent to be distributed at clubs, parties and other social gatherings.¹⁶

III. Effect of Proposed Changes:

The bill amends s. 893.03, F.S. (controlled substance schedules), to add 4 new synthetic cannabinoids and two new synthetic phenethylamines (hallucinogenic substances) to the list of Schedule I controlled substances:

- AB-PINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide);
- AB-FUBINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide);
- ADB-PINACA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide);
- Fluoro ADBICA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(fluoropentyl)-1H-indole-3-carboxamide);
- 25B-NBOMe (4-bromo-2,5-dimethoxy-N-[(2-methoxyphenyl) methyl]-benzeneethanamine); and
- 2C-C-NBOMe (4-chloro-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine).

The bill amends s. 893.13, F.S. (unlawful acts involving controlled substances), to change the references to synthetic cannabinoids in s. 893.13(6)(b), F.S. (unlawful possession), due to the scheduling of new synthetic cannabinoids by the bill.

The bill amends s. 893.135, F.S. (drug trafficking), to add 3 currently scheduled phenethylamines to s. 893.135(1)(k), F.S., which punishes trafficking in phenethylamines:

- 3,4-Methylenedioxymethcathinone;
- 3,4-Methylenedioxypyrovalerone (MDPV); and
- Methymethcathinone.¹⁷

The bill also amends s. 893.135(1)(k), F.S., to provide that s. 893.135(1)(k), F.S., covers analogs or isomers of a phenethylamine listed in this paragraph.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹⁶ Analysis of SB 780 (Feb. 7, 2014), Florida Department of Law Enforcement (on file the Senate Committee on Criminal Justice). This analysis is further referenced as “FDLE Analysis (SB 780).”

¹⁷ These chemical substances are currently scheduled at s. 893.03(1)(c)40.-42., F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The FDLE states the bill:

... could potentially increase the number of evidence submissions into FDLE's Crime Laboratory System as well as local law enforcement crime laboratories. The laboratory system will be required to purchase all of the required standards necessary to test the proposed chemical substances.

The bill will have minimal fiscal impact to FDLE. Any resulting increase in volume of evidence submissions to FDLE's Crime Laboratory system, as well as costs to acquire and maintain additional required chemical standards, will be assimilated as part of the laboratories' cost of doing business. FDLE will monitor submissions to the crime laboratories and if necessary, request an appropriation through a future Legislative Budget Request.¹⁸

The FDLE also states that "[l]ocal agencies which fund and maintain their own crime lab with a chemistry section would potentially be facing a rise in submissions associated with the additions of the proposed chemical substances."¹⁹

The Criminal Justice Impact Conference (CJIC), which provides the final, official estimate of the prison bed impact, if any, of legislation estimates that the bill will have an insignificant prison bed impact. According to information provided by the Legislature's Office of Economic and Demographic Research, in FY 2012-13, the offense coded as "Other drug—S/M/D," which would include the new substances in the bill, resulted in about 29 new commitments, most of which were third degree felonies.²⁰

¹⁸ FDLE Analysis (SB 780).

¹⁹ *Id.*

²⁰ E-mail from EDR staff to Senate Committee on Criminal Justice staff, dated Feb. 25, 2014 (on file with the Senate Committee on Criminal Justice).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 893.03, 893.13, and 893.135.

The bill reenacts paragraphs (b), (c), (e), and (g) through (i) of section 921.0022, Florida Statutes, for the purpose incorporating the amendments made by the bill to sections 893.03 and 893.135, Florida Statutes, in references to those statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal Justice on March 3, 2014:

Corrects an error regarding referencing of newly-scheduled synthetic cannabinoids.

B. Amendments:

None.



711482

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/03/2014	.	
	.	
	.	
	.	

The Committee on Criminal Justice (Bradley) recommended the following:

Senate Amendment

Delete lines 570 - 578
and insert:
893.03(1)(c)46.-50., 114.-142., 151.-159., or 166.-173. ~~166.-169.~~, the person commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. As used in
~~For the purposes of~~ this subsection, the term "cannabis" does not include the resin extracted from the plants of the genus *Cannabis*, or any compound manufacture, salt, derivative,



711482

11 mixture, or preparation of such resin, and a controlled
12 substance described in s. 893.03(1)(c)46.-50., 114.-142., 151.-
13 159., or 166.-173. ~~166.-169.~~, does not include the substance in

By Senator Bradley

7-00662C-14

2014780__

1 A bill to be entitled
 2 An act relating to controlled substances; amending s.
 3 893.03, F.S.; adding to the list of Schedule I
 4 controlled substances specified materials, compounds,
 5 mixtures, or preparations that contain hallucinogenic
 6 substances, or any of their salts, isomers, and salts
 7 of isomers, if the existence of such salts, isomers,
 8 and salts of isomers is possible within the specific
 9 chemical designation; reenacting and amending s.
 10 893.13(1)-(6), F.S., relating to prohibited acts and
 11 penalties involving controlled substances, to
 12 incorporate the amendment made to s. 893.03, F.S., in
 13 a reference thereto; providing reduced penalties for
 14 possession of 3 grams or less of specified controlled
 15 substances; amending s. 893.135, F.S.; providing that
 16 a person who knowingly sells, purchases, manufactures,
 17 delivers, or brings into this state specified
 18 quantities of 3,4-Methylenedioxymethcathinone, 3,4-
 19 Methylenedioxypropylvalerone (MDPV), or
 20 Methylenedioxymethcathinone, or who is knowingly in actual or
 21 constructive possession of specified quantities of
 22 3,4-Methylenedioxymethcathinone, 3,4-
 23 Methylenedioxypropylvalerone (MDPV), or
 24 Methylenedioxymethcathinone, commits the offense of
 25 trafficking in Phenethylamines, a felony of the first
 26 degree; providing that a person who knowingly sells,
 27 purchases, manufactures, delivers, or brings into this
 28 state specified quantities of 3,4-
 29 Methylenedioxymethcathinone, 3,4-

Page 1 of 89

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

7-00662C-14

2014780__

30 Methylenedioxypropylvalerone (MDPV), or
 31 Methylenedioxymethcathinone, or who is knowingly in actual or
 32 constructive possession of specified quantities of
 33 3,4-Methylenedioxymethcathinone, 3,4-
 34 Methylenedioxypropylvalerone (MDPV), or
 35 Methylenedioxymethcathinone, commits the offense of capital
 36 manufacture or importation of Phenethylamines, a
 37 capital felony; providing criminal penalties;
 38 reenacting s. 921.0022(3)(b), (c), (e), and (g)-(i),
 39 F.S., relating to the Criminal Punishment Code, to
 40 incorporate the amendment made to ss. 893.03 and
 41 893.135, F.S., in a reference thereto; providing an
 42 effective date.
 43
 44 Be It Enacted by the Legislature of the State of Florida:
 45
 46 Section 1. Paragraph (c) of subsection (1) of section
 47 893.03, Florida Statutes, is amended to read:
 48 893.03 Standards and schedules.—The substances enumerated
 49 in this section are controlled by this chapter. The controlled
 50 substances listed or to be listed in Schedules I, II, III, IV,
 51 and V are included by whatever official, common, usual,
 52 chemical, or trade name designated. The provisions of this
 53 section shall not be construed to include within any of the
 54 schedules contained in this section any excluded drugs listed
 55 within the purview of 21 C.F.R. s. 1308.22, styled "Excluded
 56 Substances"; 21 C.F.R. s. 1308.24, styled "Exempt Chemical
 57 Preparations"; 21 C.F.R. s. 1308.32, styled "Exempted
 58 Prescription Products"; or 21 C.F.R. s. 1308.34, styled "Exempt

Page 2 of 89

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7-00662C-14

2014780__

Anabolic Steroid Products."

(1) SCHEDULE I.—A substance in Schedule I has a high potential for abuse and has no currently accepted medical use in treatment in the United States and in its use under medical supervision does not meet accepted safety standards. The following substances are controlled in Schedule I:

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following hallucinogenic substances or that contains any of their salts, isomers, including optical, positional, or geometric isomers, and salts of isomers, if the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

1. Alpha-ethyltryptamine.
2. 2-Amino-4-methyl-5-phenyl-2-oxazoline (4-methylaminorex).
3. 2-Amino-5-phenyl-2-oxazoline (Aminorex).
4. 4-Bromo-2,5-dimethoxyamphetamine.
5. 4-Bromo-2,5-dimethoxyphenethylamine.
6. Bufotenine.
7. Cannabis.
8. Cathinone.
9. Diethyltryptamine.
10. 2,5-Dimethoxyamphetamine.
11. 2,5-Dimethoxy-4-ethylamphetamine (DOET).
12. Dimethyltryptamine.
13. N-Ethyl-1-phenylcyclohexylamine (PCE) (Ethylamine analog of phencyclidine).

Page 3 of 89

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

7-00662C-14

2014780__

14. N-Ethyl-3-piperidyl benzilate.
15. N-ethylamphetamine.
16. Fenethylamine.
17. N-Hydroxy-3,4-methylenedioxyamphetamine.
18. Ibogaine.
19. Lysergic acid diethylamide (LSD).
20. Mescaline.
21. Methcathinone.
22. 5-Methoxy-3,4-methylenedioxyamphetamine.
23. 4-methoxyamphetamine.
24. 4-methoxymethamphetamine.
25. 4-Methyl-2,5-dimethoxyamphetamine.
26. 3,4-Methylenedioxy-N-ethylamphetamine.
27. 3,4-Methylenedioxyamphetamine.
28. N-Methyl-3-piperidyl benzilate.
29. N,N-dimethylamphetamine.
30. Parahexyl.
31. Peyote.
32. N-(1-Phenylcyclohexyl)-pyrrolidine (PCPY) (Pyrrolidine analog of phencyclidine).
33. Psilocybin.
34. Psilocyn.
35. *Salvia divinorum*, except for any drug product approved by the United States Food and Drug Administration which contains *Salvia divinorum* or its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, if the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation.
36. Salvinorin A, except for any drug product approved by

Page 4 of 89

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

7-00662C-14

2014780

117 the United States Food and Drug Administration which contains
 118 Salvinorin A or its isomers, esters, ethers, salts, and salts of
 119 isomers, esters, and ethers, if the existence of such isomers,
 120 esters, ethers, and salts is possible within the specific
 121 chemical designation.
 122 37. Tetrahydrocannabinols.
 123 38. 1-[1-(2-Thienyl)-cyclohexyl]-piperidine (TCP)
 124 (Thiophene analog of phencyclidine).
 125 39. 3,4,5-Trimethoxyamphetamine.
 126 40. 3,4-Methylenedioxymethcathinone.
 127 41. 3,4-Methylenedioxypyrovalerone (MDPV).
 128 42. Methylethcathinone.
 129 43. Methoxymethcathinone.
 130 44. Fluoromethcathinone.
 131 45. Methylethcathinone.
 132 46. 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-
 133 yl)phenol, also known as CP 47,497 and its dimethyloctyl (C8)
 134 homologue.
 135 47. (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-
 136 methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo [c]chromen-1-ol,
 137 also known as HU-210.
 138 48. 1-Pentyl-3-(1-naphthoyl)indole, also known as JWH-018.
 139 49. 1-Butyl-3-(1-naphthoyl)indole, also known as JWH-073.
 140 50. 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl) indole, also
 141 known as JWH-200.
 142 51. BZP (Benzylpiperazine).
 143 52. Fluorophenylpiperazine.
 144 53. Methylphenylpiperazine.
 145 54. Chlorophenylpiperazine.

Page 5 of 89

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

7-00662C-14

2014780

146 55. Methoxyphenylpiperazine.
 147 56. DBZP (1,4-dibenzylpiperazine).
 148 57. TFMPP (3-Trifluoromethylphenylpiperazine).
 149 58. MBDB (Methylbenzodioxolylbutanamine).
 150 59. 5-Hydroxy-alpha-methyltryptamine.
 151 60. 5-Hydroxy-N-methyltryptamine.
 152 61. 5-Methoxy-N-methyl-N-isopropyltryptamine.
 153 62. 5-Methoxy-alpha-methyltryptamine.
 154 63. Methyltryptamine.
 155 64. 5-Methoxy-N,N-dimethyltryptamine.
 156 65. 5-Methyl-N,N-dimethyltryptamine.
 157 66. Tyramine (4-Hydroxyphenethylamine).
 158 67. 5-Methoxy-N,N-Diisopropyltryptamine.
 159 68. DiPT (N,N-Diisopropyltryptamine).
 160 69. DPT (N,N-Dipropyltryptamine).
 161 70. 4-Hydroxy-N,N-diisopropyltryptamine.
 162 71. N,N-Diallyl-5-Methoxytryptamine.
 163 72. DOI (4-Iodo-2,5-dimethoxyamphetamine).
 164 73. DOC (4-Chloro-2,5-dimethoxyamphetamine).
 165 74. 2C-E (4-Ethyl-2,5-dimethoxyphenethylamine).
 166 75. 2C-T-4 (2,5-Dimethoxy-4-isopropylthiophenethylamine).
 167 76. 2C-C (4-Chloro-2,5-dimethoxyphenethylamine).
 168 77. 2C-T (2,5-Dimethoxy-4-methylthiophenethylamine).
 169 78. 2C-T-2 (2,5-Dimethoxy-4-ethylthiophenethylamine).
 170 79. 2C-T-7 (2,5-Dimethoxy-4-(n)-propylthiophenethylamine).
 171 80. 2C-I (4-Iodo-2,5-dimethoxyphenethylamine).
 172 81. Butylone (beta-keto-N-methylbenzodioxolylpropylamine).
 173 82. Ethcathinone.
 174 83. Ethylone (3,4-methylenedioxy-N-ethylcathinone).

Page 6 of 89

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

7-00662C-14

2014780__

175 84. Naphyrone (naphthylpyrovalerone).
 176 85. N-N-Dimethyl-3,4-methylenedioxyecathinone.
 177 86. N-N-Diethyl-3,4-methylenedioxyecathinone.
 178 87. 3,4-methylenedioxy-propiofenone.
 179 88. 2-Bromo-3,4-Methylenedioxypropiofenone.
 180 89. 3,4-methylenedioxy-propiofenone-2-oxime.
 181 90. N-Acetyl-3,4-methylenedioxyecathinone.
 182 91. N-Acetyl-N-Methyl-3,4-Methylenedioxyecathinone.
 183 92. N-Acetyl-N-Ethyl-3,4-Methylenedioxyecathinone.
 184 93. Bromomethcathinone.
 185 94. Buphedrone (alpha-methylamino-butyrophenone).
 186 95. Eutylone (beta-Keto-Ethylbenzodioxolylbutanamine).
 187 96. Dimethylcathinone.
 188 97. Dimethylmethcathinone.
 189 98. Pentylone (beta-Keto-Methylbenzodioxolylpentanamine).
 190 99. (MDPPP) 3,4-Methylenedioxy-alpha-
 191 pyrrolidinopropiofenone.
 192 100. (MDPBP) 3,4-Methylenedioxy-alpha-
 193 pyrrolidinobutiophenone.
 194 101. Methoxy-alpha-pyrrolidinopropiofenone (MOPPP).
 195 102. Methyl-alpha-pyrrolidinohexiophenone (MPHP).
 196 103. Benocyclidine (BCP) or
 197 benzothiophenylcyclohexylpiperidine (BTCP).
 198 104. Fluoromethylaminobutyrophenone (F-MABP).
 199 105. Methoxypyrrolidinobutyrophenone (MeO-PBP).
 200 106. Ethyl-pyrrolidinobutyrophenone (Et-PBP).
 201 107. 3-Methyl-4-Methoxymethcathinone (3-Me-4-MeO-MCAT).
 202 108. Methyl-ethylaminobutyrophenone (Me-EABP).
 203 109. Methylamino-butyrophenone (MABP).

7-00662C-14

2014780__

204 110. Pyrrolidinopropiofenone (PPP).
 205 111. Pyrrolidinobutiophenone (PBP).
 206 112. Pyrrolidinovalerophenone (PVP).
 207 113. Methyl-alpha-pyrrolidinopropiofenone (MPPP).
 208 114. JWH-007 (1-pentyl-2-methyl-3-(1-naphthoyl)indole).
 209 115. JWH-015 (2-Methyl-1-propyl-1H-indol-3-yl)-1-
 210 naphthalenylmethanone).
 211 116. JWH-019 (Naphthalen-1-yl-(1-hexylindol-3-
 212 yl)methanone).
 213 117. JWH-020 (1-heptyl-3-(1-naphthoyl)indole).
 214 118. JWH-072 (Naphthalen-1-yl-(1-propyl-1H-indol-3-
 215 yl)methanone).
 216 119. JWH-081 (4-methoxynaphthalen-1-yl-(1-pentylindol-3-
 217 yl)methanone).
 218 120. JWH-122 (1-pentyl-3-(4-methyl-1-naphthoyl)indole).
 219 121. JWH-133 ((6aR,10aR)-3-(1,1-Dimethylbutyl)-6a,7,10,10a-
 220 tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran)).
 221 122. JWH-175 (3-(naphthalen-1-ylmethyl)-1-pentyl-1H-
 222 indole).
 223 123. JWH-201 (1-pentyl-3-(4-methoxyphenylacetyl)indole).
 224 124. JWH-203 (2-(2-chlorophenyl)-1-(1-pentylindol-3-
 225 yl)ethanone).
 226 125. JWH-210 (4-ethylnaphthalen-1-yl-(1-pentylindol-3-
 227 yl)methanone).
 228 126. JWH-250 (2-(2-methoxyphenyl)-1-(1-pentylindol-3-
 229 yl)ethanone).
 230 127. JWH-251 (2-(2-methylphenyl)-1-(1-pentyl-1H-indol-3-
 231 yl)ethanone).
 232 128. JWH-302 (1-pentyl-3-(3-methoxyphenylacetyl)indole).

7-00662C-14 2014780__

233 129. JWH-398 (1-pentyl-3-(4-chloro-1-naphthoyl)indole).
 234 130. HU-211 ((6aS,10aS)-9-(Hydroxymethyl)-6,6-dimethyl-3-
 235 (2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-
 236 ol).
 237 131. HU-308 ([(1R,2R,5R)-2-[2,6-dimethoxy-4-(2-methyloctan-
 238 2-yl)phenyl]-7,7-dimethyl-4-bicyclo[3.1.1]hept-3-enyl]
 239 methanol).
 240 132. HU-331 (3-hydroxy-2-[(1R,6R)-3-methyl-6-(1-
 241 methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-2,5-cyclohexadiene-
 242 1,4-dione).
 243 133. CB-13 (Naphthalen-1-yl-(4-pentyloxynaphthalen-1-
 244 yl)methanone).
 245 134. CB-25 (N-cyclopropyl-11-(3-hydroxy-5-pentylphenoxy)-
 246 undecanamide).
 247 135. CB-52 (N-cyclopropyl-11-(2-hexyl-5-hydroxyphenoxy)-
 248 undecanamide).
 249 136. CP 55,940 (2-[(1R,2R,5R)-5-hydroxy-2-(3-
 250 hydroxypropyl)cyclohexyl]-5-(2-methyloctan-2-yl)phenol).
 251 137. AM-694 (1-[(5-fluoropentyl)-1H-indol-3-yl]-(2-
 252 iodophenyl)methanone).
 253 138. AM-2201 (1-[(5-fluoropentyl)-1H-indol-3-yl]-
 254 (naphthalen-1-yl)methanone).
 255 139. RCS-4 ((4-methoxyphenyl) (1-pentyl-1H-indol-3-
 256 yl)methanone).
 257 140. RCS-8 (1-(1-(2-cyclohexylethyl)-1H-indol-3-yl)-2-(2-
 258 methoxyphenylethanone).
 259 141. WIN55,212-2 ((R)-(+)-[2,3-Dihydro-5-methyl-3-(4-
 260 morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-
 261 naphthalenylmethanone).

Page 9 of 89

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7-00662C-14 2014780__

262 142. WIN55,212-3 ([(3S)-2,3-Dihydro-5-methyl-3-(4-
 263 morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-
 264 naphthalenylmethanone).
 265 143. Pentedrone (2-(methylamino)-1-phenyl-1-pentanone).
 266 144. Fluoroamphetamine.
 267 145. Fluoromethamphetamine.
 268 146. Methoxetamine.
 269 147. Methiopropamine.
 270 148. 4-Methylbuphedrone (2-Methylamino-1-(4-
 271 methylphenyl)butan-1-one).
 272 149. APB ((2-aminopropyl)benzofuran).
 273 150. APDB ((2-aminopropyl)-2,3-dihydrobenzofuran).
 274 151. UR-144 ((1-pentyl-1H-indol-3-yl) (2,2,3,3-
 275 tetramethylcyclopropyl)methanone).
 276 152. XLR11 ((1-(5-fluoropentyl)-1H-indol-3-yl) (2,2,3,3-
 277 tetramethylcyclopropyl)methanone).
 278 153. (1-(5-chloropentyl)-1H-indol-3-yl) (2,2,3,3-
 279 tetramethylcyclopropyl)methanone).
 280 154. AKB48 (1-pentyl-N-tricyclo[3.3.1.1³,7]dec-1-yl-1H-
 281 indazole-3-carboxamide).
 282 155. AM-2233((2-iodophenyl) [1-[(1-methyl-2-
 283 piperidinyl)methyl]-1H-indol-3-yl]-methanone).
 284 156. STS-135 (1-(5-fluoropentyl)-N-tricyclo[3.3.1.1³,7]dec-
 285 1-yl-1H-indole-3-carboxamide).
 286 157. URB-597 ((3'-(aminocarbonyl) [1,1'-biphenyl]-3-yl)-
 287 cyclohexylcarbamate).
 288 158. URB-602 ([1,1'-biphenyl]-3-yl-carbamic acid,
 289 cyclohexyl ester).
 290 159. URB-754 (6-methyl-2-[(4-methylphenyl)amino]-1-

Page 10 of 89

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

7-00662C-14 2014780__

291 benzoxazin-4-one).

292 160. 2C-D (2-(2,5-Dimethoxy-4-methylphenyl)ethanamine).

293 161. 2C-H (2-(2,5-Dimethoxyphenyl)ethanamine).

294 162. 2C-N (2-(2,5-Dimethoxy-4-nitrophenyl)ethanamine).

295 163. 2C-P (2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine).

296 164. 25I-NBOMe (4-iodo-2,5-dimethoxy-N-[(2-

297 methoxyphenyl)methyl]-benzeneethanamine).

298 165. 3,4-Methylenedioxymethamphetamine (MDMA).

299 166. PB-22 (1-pentyl-8-quinolinyl ester-1H-indole-3-

300 carboxylic acid).

301 167. 5-Fluoro PB-22 (8-quinolinyl ester-1-(5-fluoropentyl)-

302 1H-indole-3-carboxylic acid).

303 168. BB-22 (1-(cyclohexylmethyl)-8-quinolinyl ester-1H-

304 indole-3-carboxylic acid).

305 169. 5-Fluoro AKB48 (N-((3s,5s,7s)-adamantan-1-yl)-1-(5-

306 fluoropentyl)-1H-indazole-3-carboxamide).

307 170. AB-PINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-

308 pentyl-1H-indazole-3-carboxamide).

309 171. AB-FUBINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-

310 (4-fluorobenzyl)-1H-indazole-3-carboxamide).

311 172. ADB-PINACA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-

312 1-pentyl-1H-indazole-3-carboxamide).

313 173. Fluoro ADBICA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-

314 yl)-1-(fluoropentyl)-1H-indole-3-carboxamide).

315 174. 25B-NBOMe (4-bromo-2,5-dimethoxy-N-[(2-methoxyphenyl)

316 methyl]-benzeneethanamine).

317 175. 2C-C-NBOMe (4-chloro-2,5-dimethoxy-N-[(2-

318 methoxyphenyl)methyl]-benzeneethanamine).

319 Section 2. For the purpose of incorporating the amendment

7-00662C-14 2014780__

320 made by this act to section 893.03, Florida Statutes, in

321 reference thereto, subsections (1) through (6) of section

322 893.13, Florida Statutes, are reenacted and amended to read:

323 893.13 Prohibited acts; penalties.—

324 (1) (a) Except as authorized by this chapter and chapter

325 499, ~~a it is unlawful for any person~~ may not ~~to~~ sell,

326 manufacture, or deliver, or possess with intent to sell,

327 manufacture, or deliver, a controlled substance. A ~~Any~~ person

328 who violates this provision with respect to:

329 1. A controlled substance named or described in s.

330 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. ~~7~~

331 commits a felony of the second degree, punishable as provided in

332 s. 775.082, s. 775.083, or s. 775.084.

333 2. A controlled substance named or described in s.

334 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,

335 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of

336 the third degree, punishable as provided in s. 775.082, s.

337 775.083, or s. 775.084.

338 3. A controlled substance named or described in s.

339 893.03(5) commits a misdemeanor of the first degree, punishable

340 as provided in s. 775.082 or s. 775.083.

341 (b) Except as provided in this chapter, a person may not ~~it~~

342 ~~is unlawful to~~ sell or deliver in excess of 10 grams of any

343 substance named or described in s. 893.03(1)(a) or (1)(b), or

344 any combination thereof, or any mixture containing any such

345 substance. A ~~Any~~ person who violates this paragraph commits a

346 felony of the first degree, punishable as provided in s.

347 775.082, s. 775.083, or s. 775.084.

348 (c) Except as authorized by this chapter, ~~a it is unlawful~~

7-00662C-14

2014780

349 ~~for any person may not to~~ sell, manufacture, or deliver, or
 350 possess with intent to sell, manufacture, or deliver, a
 351 controlled substance in, on, or within 1,000 feet of the real
 352 property comprising a child care facility as defined in s.
 353 402.302 or a public or private elementary, middle, or secondary
 354 school between the hours of 6 a.m. and 12 midnight, or at any
 355 time in, on, or within 1,000 feet of real property comprising a
 356 state, county, or municipal park, a community center, or a
 357 publicly owned recreational facility. As used in ~~For the~~
 358 ~~purposes of~~ this paragraph, the term "community center" means a
 359 facility operated by a nonprofit community-based organization
 360 for the provision of recreational, social, or educational
 361 services to the public. A ~~Any~~ person who violates this paragraph
 362 with respect to:

363 1. A controlled substance named or described in s.
 364 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.
 365 commits a felony of the first degree, punishable as provided in
 366 s. 775.082, s. 775.083, or s. 775.084. The defendant must be
 367 sentenced to a minimum term of imprisonment of 3 calendar years
 368 unless the offense was committed within 1,000 feet of the real
 369 property comprising a child care facility as defined in s.
 370 402.302.

371 2. A controlled substance named or described in s.
 372 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
 373 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
 374 the second degree, punishable as provided in s. 775.082, s.
 375 775.083, or s. 775.084.

376 3. Any other controlled substance, except as lawfully sold,
 377 manufactured, or delivered, must be sentenced to pay a \$500 fine

7-00662C-14

2014780

378 and to serve 100 hours of public service in addition to any
 379 other penalty prescribed by law.

380
 381 This paragraph does not apply to a child care facility unless
 382 the owner or operator of the facility posts a sign that is not
 383 less than 2 square feet in size with a word legend identifying
 384 the facility as a licensed child care facility and that is
 385 posted on the property of the child care facility in a
 386 conspicuous place where the sign is reasonably visible to the
 387 public.

388 (d) Except as authorized by this chapter, a ~~it is unlawful~~
 389 ~~for any person may not to~~ sell, manufacture, or deliver, or
 390 possess with intent to sell, manufacture, or deliver, a
 391 controlled substance in, on, or within 1,000 feet of the real
 392 property comprising a public or private college, university, or
 393 other postsecondary educational institution. A ~~Any~~ person who
 394 violates this paragraph with respect to:

395 1. A controlled substance named or described in s.
 396 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.
 397 commits a felony of the first degree, punishable as provided in
 398 s. 775.082, s. 775.083, or s. 775.084.

399 2. A controlled substance named or described in s.
 400 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
 401 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
 402 the second degree, punishable as provided in s. 775.082, s.
 403 775.083, or s. 775.084.

404 3. Any other controlled substance, except as lawfully sold,
 405 manufactured, or delivered, must be sentenced to pay a \$500 fine
 406 and to serve 100 hours of public service in addition to any

7-00662C-14

2014780

other penalty prescribed by law.

(e) Except as authorized by this chapter, ~~a it is unlawful for any person may not to~~ sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance not authorized by law in, on, or within 1,000 feet of a physical place for worship at which a church or religious organization regularly conducts religious services or within 1,000 feet of a convenience business as defined in s. 812.171. A Any person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. ~~7~~ commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold, manufactured, or delivered, must be sentenced to pay a \$500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

(f) Except as authorized by this chapter, ~~a it is unlawful for any person may not to~~ sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance in, on, or within 1,000 feet of the real property comprising a public housing facility at any time. As used in For purposes of this section, the term "real property

7-00662C-14

2014780

comprising a public housing facility" means real property, as defined in s. 421.03(12), of a public corporation created as a housing authority pursuant to part I of chapter 421. A Any person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. ~~7~~ commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold, manufactured, or delivered, must be sentenced to pay a \$500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

(g) Except as authorized by this chapter, ~~a it is unlawful for any person may not to~~ manufacture methamphetamine or phencyclidine, or possess any listed chemical as defined in s. 893.033 in violation of s. 893.149 and with intent to manufacture methamphetamine or phencyclidine. If a any person violates this paragraph and:

1. The commission or attempted commission of the crime occurs in a structure or conveyance where any child younger than under 16 years of age is present, the person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In addition, the defendant must be sentenced to a minimum term of imprisonment of 5 calendar years.

7-00662C-14

2014780__

2. The commission of the crime causes any child younger than under 16 years of age to suffer great bodily harm, the person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In addition, the defendant must be sentenced to a minimum term of imprisonment of 10 calendar years.

(h) Except as authorized by this chapter, ~~a it is unlawful for any person may not to~~ sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance in, on, or within 1,000 feet of the real property comprising an assisted living facility, as that term is used in chapter 429. A Any person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2)(a) Except as authorized by this chapter and chapter 499, ~~a it is unlawful for any person may not to~~ purchase, or possess with intent to purchase, a controlled substance. A Any person who violates this provision with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. commits a felony of the second degree, punishable as provided in

7-00662C-14

2014780__

s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. A controlled substance named or described in s. 893.03(5) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Except as provided in this chapter, a person may not it is unlawful to purchase more than in excess of 10 grams of any substance named or described in s. 893.03(1)(a) or (1)(b), or any combination thereof, or any mixture containing any such substance. A Any person who violates this paragraph commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) A Any person who delivers, without consideration, ~~not more than~~ 20 grams or less of cannabis, as defined in this chapter, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. As used in For the purposes of this paragraph, the term "cannabis" does not include the resin extracted from the plants of the genus *Cannabis* or any compound manufacture, salt, derivative, mixture, or preparation of such resin.

(4) Except as authorized by this chapter, ~~a it is unlawful for any person 18 years of age or older may not to~~ deliver any controlled substance to a person younger than under the age of 18 years of age, ~~or to~~ use or hire a person younger than under the age of 18 years of age as an agent or employee in the sale

7-00662C-14

2014780

or delivery of such a substance, or ~~to~~ use such person to assist in avoiding detection or apprehension for a violation of this chapter. A ~~Any~~ person who violates this provision with respect to:

(a) A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.~~r~~ commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Imposition of sentence may not be suspended or deferred, and ~~nor shall~~ the person so convicted may not be placed on probation.

(5) ~~A~~ It is unlawful for any person may not ~~to~~ bring into this state any controlled substance unless the possession of such controlled substance is authorized by this chapter or unless such person is licensed to do so by the appropriate federal agency. A ~~Any~~ person who violates this provision with respect to:

(a) A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.~~r~~ commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of

7-00662C-14

2014780

the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) A controlled substance named or described in s. 893.03(5) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(6)(a) ~~A~~ It is unlawful for any person may not ~~to~~ be in actual or constructive possession of a controlled substance unless such controlled substance was lawfully obtained from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of his or her professional practice or to be in actual or constructive possession of a controlled substance except as otherwise authorized by this chapter. A ~~Any~~ person who violates this provision commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) If the offense is the possession of ~~not more than~~ 20 grams or less of cannabis, as defined in this chapter, or 3 grams or less of a controlled substance described in s. 893.03(1)(c)46.-50., 114.-142., 151.-159., or 166.-175. ~~166.-169.~~, the person commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. As used in ~~For the purposes of~~ this subsection, the term "cannabis" does not include the resin extracted from the plants of the genus *Cannabis*, or any compound manufacture, salt, derivative, mixture, or preparation of such resin, and a controlled substance described in s. 893.03(1)(c)46.-50., 114.-142., 151.-159., or 166.-175. ~~166.-169.~~, does not include the substance in a powdered form.

(c) Except as provided in this chapter, a person may not ~~it~~

7-00662C-14

2014780__

581 ~~is unlawful to possess more than in excess of~~ 10 grams of any
 582 substance named or described in s. 893.03(1)(a) or (1)(b), or
 583 any combination thereof, or any mixture containing any such
 584 substance. ~~A~~ Any person who violates this paragraph commits a
 585 felony of the first degree, punishable as provided in s.
 586 775.082, s. 775.083, or s. 775.084.

587 (d) Notwithstanding any provision to the contrary of the
 588 laws of this state relating to arrest, a law enforcement officer
 589 may arrest without warrant any person who the officer has
 590 probable cause to believe is violating the provisions of this
 591 chapter relating to possession of cannabis.

592 Section 3. Paragraph (k) of subsection (1) of section
 593 893.135, Florida Statutes, is amended to read:

594 893.135 Trafficking; mandatory sentences; suspension or
 595 reduction of sentences; conspiracy to engage in trafficking.—

596 (1) Except as authorized in this chapter or in chapter 499
 597 and notwithstanding the provisions of s. 893.13:

598 (k)1. ~~A~~ Any person who knowingly sells, purchases,
 599 manufactures, delivers, or brings into this state, or who is
 600 knowingly in actual or constructive possession of, 10 grams or
 601 more of any of the following substances described in s.

602 893.03(1)(c):

- 603 a. 3,4-Methylenedioxymethamphetamine (MDMA);
- 604 b. 4-Bromo-2,5-dimethoxyamphetamine;
- 605 c. 4-Bromo-2,5-dimethoxyphenethylamine;
- 606 d. 2,5-Dimethoxyamphetamine;
- 607 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
- 608 f. N-ethylamphetamine;
- 609 g. N-Hydroxy-3,4-methylenedioxymphetamine;

7-00662C-14

2014780__

- 610 h. 5-Methoxy-3,4-methylenedioxymphetamine;
- 611 i. 4-methoxyamphetamine;
- 612 j. 4-methoxymethamphetamine;
- 613 k. 4-Methyl-2,5-dimethoxyamphetamine;
- 614 l. 3,4-Methylenedioxy-N-ethylamphetamine;
- 615 m. 3,4-Methylenedioxymphetamine;
- 616 n. N,N-dimethylamphetamine; ~~or~~
- 617 o. 3,4,5-Trimethoxyamphetamine;~~r~~
- 618 p. 3,4-Methylenedioxymethcathinone;
- 619 q. 3,4-Methylenedioxypyrovalerone (MDPV); or
- 620 r. Methylmethcathinone,

621 individually or analogs thereto or isomers thereto or in any
 622 combination of or any mixture containing any substance listed in
 623 sub-subparagraphs a.-r. a.-o., commits a felony of the first
 624 degree, which felony shall be known as "trafficking in
 625 Phenethylamines," punishable as provided in s. 775.082, s.
 626 775.083, or s. 775.084.

628 2. If the quantity involved:

629 a. Is 10 grams or more, but less than 200 grams, such
 630 person shall be sentenced to a mandatory minimum term of
 631 imprisonment of 3 years, ~~and the defendant~~ shall be ordered to
 632 pay a fine of \$50,000.

633 b. Is 200 grams or more, but less than 400 grams, such
 634 person shall be sentenced to a mandatory minimum term of
 635 imprisonment of 7 years, ~~and the defendant~~ shall be ordered to
 636 pay a fine of \$100,000.

637 c. Is 400 grams or more, such person shall be sentenced to
 638 a mandatory minimum term of imprisonment of 15 ~~calendar~~ years

7-00662C-14

2014780__

and shall be ordered to pay a fine of \$250,000.

3. ~~A Any~~ person who knowingly manufactures or brings into this state 30 kilograms or more of any of the following substances described in s. 893.03(1)(c):

- a. 3,4-Methylenedioxymethamphetamine (MDMA);
- b. 4-Bromo-2,5-dimethoxyamphetamine;
- c. 4-Bromo-2,5-dimethoxyphenethylamine;
- d. 2,5-Dimethoxyamphetamine;
- e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
- f. N-ethylamphetamine;
- g. N-Hydroxy-3,4-methylenedioxymphetamine;
- h. 5-Methoxy-3,4-methylenedioxymphetamine;
- i. 4-methoxyamphetamine;
- j. 4-methoxymethamphetamine;
- k. 4-Methyl-2,5-dimethoxyamphetamine;
- l. 3,4-Methylenedioxy-N-ethylamphetamine;
- m. 3,4-Methylenedioxyamphetamine;
- n. N,N-dimethylamphetamine; ~~or~~
- o. 3,4,5-Trimethoxyamphetamine;
- p. 3,4-Methylenedioxymethcathinone;
- q. 3,4-Methylenedioxypyrovalerone (MDPV); or
- r. Methymethcathinone,

individually or analogs thereto or isomers thereto or in any combination of or any mixture containing any substance listed in sub-subparagraphs ~~a.-r. a.-e.~~, and who knows that the probable result of such manufacture or importation would be the death of any person commits capital manufacture or importation of Phenethylamines, a capital felony punishable as provided in ss.

Page 23 of 89

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7-00662C-14

2014780__

775.082 and 921.142. A ~~Any~~ person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

Section 4. For the purpose of incorporating the amendment made by this act to sections 893.03 and 893.135, Florida Statutes, in a reference thereto, paragraphs (b), (c), (e), and (g) through (i) of subsection (3) of section 921.0022, Florida Statutes, are reenacted to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(b) LEVEL 2

Florida Statute	Felony Degree	Description
379.2431 (1)(e)3.	3rd	Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.
379.2431 (1)(e)4.	3rd	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.
403.413(6)(c)	3rd	Dumps waste litter exceeding 500 lbs. in

Page 24 of 89

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7-00662C-14

2014780__

684			weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.
	517.07(2)	3rd	Failure to furnish a prospectus meeting requirements.
685			
	590.28(1)	3rd	Intentional burning of lands.
686			
	784.05(3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
687			
	787.04(1)	3rd	In violation of court order, take, entice, etc., minor beyond state limits.
688			
	806.13(1)(b)3.	3rd	Criminal mischief; damage \$1,000 or more to public communication or any other public service.

Page 25 of 89

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7-00662C-14

2014780__

689	810.061(2)	3rd	Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.
690			
	810.09(2)(e)	3rd	Trespassing on posted commercial horticulture property.
691			
	812.014(2)(c)1.	3rd	Grand theft, 3rd degree; \$300 or more but less than \$5,000.
692			
	812.014(2)(d)	3rd	Grand theft, 3rd degree; \$100 or more but less than \$300, taken from unenclosed curtilage of dwelling.
693			
	812.015(7)	3rd	Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.
694			
	817.234(1)(a)2.	3rd	False statement in support of insurance claim.

Page 26 of 89

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695	7-00662C-14	2014780	
	817.481(3) (a)	3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over \$300.
696	817.52(3)	3rd	Failure to redeliver hired vehicle.
697	817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
698	817.60(5)	3rd	Dealing in credit cards of another.
699	817.60(6) (a)	3rd	Forgery; purchase goods, services with false card.
700	817.61	3rd	Fraudulent use of credit cards over \$100 or more within 6 months.
701	826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.

702	7-00662C-14	2014780	
	831.01	3rd	Forgery.
703	831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
704	831.07	3rd	Forging bank bills, checks, drafts, or promissory notes.
705	831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.
706	831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.
707	831.11	3rd	Bringing into the state forged bank bills, checks, drafts, or notes.
708	832.05(3) (a)	3rd	Cashing or depositing item with intent to defraud.
709			

710	7-00662C-14	2014780	3rd	Falsely impersonating an officer.
	843.08			
	893.13(2)(a)2.		3rd	Purchase of any s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs other than cannabis.
711	893.147(2)		3rd	Manufacture or delivery of drug paraphernalia.
712	(c) LEVEL 3			
714	Florida Statute	Felony Degree		Description
715	119.10(2)(b)		3rd	Unlawful use of confidential information from police reports.
716	316.066 (3)(b)-(d)		3rd	Unlawfully obtaining or using confidential crash reports.
717	316.193(2)(b)		3rd	Felony DUI, 3rd conviction.

Page 29 of 89

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718	7-00662C-14	2014780		
	316.1935(2)		3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
719	319.30(4)		3rd	Possession by junkyard of motor vehicle with identification number plate removed.
720	319.33(1)(a)		3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
721	319.33(1)(c)		3rd	Procure or pass title on stolen vehicle.
722	319.33(4)		3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
723	327.35(2)(b)		3rd	Felony BUI.
724	328.05(2)		3rd	Possess, sell, or

Page 30 of 89

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	7-00662C-14		2014780	counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
725				
	328.07(4)	3rd		Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
726				
	376.302(5)	3rd		Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
727				
	379.2431 (1)(e)5.	3rd		Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
728				
	379.2431 (1)(e)6.	3rd		Soliciting to commit or conspiring to commit a

	7-00662C-14		2014780	violation of the Marine Turtle Protection Act.
729				
	400.9935(4)	3rd		Operating a clinic without a license or filing false license application or other required information.
730				
	440.1051(3)	3rd		False report of workers' compensation fraud or retaliation for making such a report.
731				
	501.001(2)(b)	2nd		Tampers with a consumer product or the container using materially false/misleading information.
732				
	624.401(4)(a)	3rd		Transacting insurance without a certificate of authority.
733				
	624.401(4)(b)1.	3rd		Transacting insurance without a certificate of authority; premium collected less than \$20,000.
734				

	7-00662C-14		2014780__
735	626.902(1)(a) & (b)	3rd	Representing an unauthorized insurer.
736	697.08	3rd	Equity skimming.
737	790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
738	796.05(1)	3rd	Live on earnings of a prostitute.
739	806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
740	806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
741	810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.

Page 33 of 89

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	7-00662C-14		2014780__
742	812.0145(2)(c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
743	815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.
744	817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
745	817.233	3rd	Burning to defraud insurer.
746	817.234 (8)(b)-(c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
747	817.234(11)(a)	3rd	Insurance fraud; property value less than \$20,000.
748	817.236	3rd	Filing a false motor vehicle insurance application.
749	817.2361	3rd	Creating, marketing, or presenting a false or

Page 34 of 89

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	7-00662C-14		2014780	
			fraudulent motor vehicle insurance card.	
750				
	817.413(2)	3rd	Sale of used goods as new.	
751				
	817.505(4)	3rd	Patient brokering.	
752				
	828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.	
753				
	831.28(2)(a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.	
754				
	831.29	2nd	Possession of instruments for counterfeiting <u>driver</u> drivers licenses or identification cards.	
755				
	838.021(3)(b)	3rd	Threatens unlawful harm to public servant.	
756				
	843.19	3rd	Injure, disable, or kill police dog or horse.	
757				

Page 35 of 89

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	7-00662C-14		2014780	
	860.15(3)	3rd	Overcharging for repairs and parts.	
758				
	870.01(2)	3rd	Riot; inciting or encouraging.	
759				
	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).	
760				
	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 1,000 feet of university.	
761				
	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7.,	

Page 36 of 89

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7-00662C-14

2014780

(2) (c) 8., (2) (c) 9., (3), or
(4) drugs within 1,000 feet
of public housing facility.

762

893.13(6) (a)

3rd

Possession of any
controlled substance other
than felony possession of
cannabis.

763

893.13(7) (a) 8.

3rd

Withhold information from
practitioner regarding
previous receipt of or
prescription for a
controlled substance.

764

893.13(7) (a) 9.

3rd

Obtain or attempt to obtain
controlled substance by
fraud, forgery,
misrepresentation, etc.

765

893.13(7) (a) 10.

3rd

Affix false or forged label
to package of controlled
substance.

766

893.13(7) (a) 11.

3rd

Furnish false or fraudulent
material information on any
document or record required
by chapter 893.

767

Page 37 of 89

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7-00662C-14

2014780

893.13(8) (a) 1.

3rd

Knowingly assist a patient,
other person, or owner of
an animal in obtaining a
controlled substance
through deceptive, untrue,
or fraudulent
representations in or
related to the
practitioner's practice.

768

893.13(8) (a) 2.

3rd

Employ a trick or scheme in
the practitioner's practice
to assist a patient, other
person, or owner of an
animal in obtaining a
controlled substance.

769

893.13(8) (a) 3.

3rd

Knowingly write a
prescription for a
controlled substance for a
fictitious person.

770

893.13(8) (a) 4.

3rd

Write a prescription for a
controlled substance for a
patient, other person, or
an animal if the sole
purpose of writing the
prescription is a monetary
benefit for the

Page 38 of 89

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

7-00662C-14		2014780__	
			practitioner.
771	918.13(1) (a)	3rd	Alter, destroy, or conceal investigation evidence.
772	944.47	3rd	Introduce contraband to
	(1) (a) 1.-2.		correctional facility.
773	944.47(1) (c)	2nd	Possess contraband while upon the grounds of a correctional institution.
774	985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).
775			
776	(e) LEVEL 5		
777			
	Florida	Felony	
	Statute	Degree	Description
778	316.027(1) (a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
779	316.1935(4) (a)	2nd	Aggravated fleeing or eluding.

7-00662C-14		2014780__	
780	322.34 (6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
781	327.30 (5)	3rd	Vessel accidents involving personal injury; leaving scene.
782	379.367 (4)	3rd	Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.
783	379.3671	3rd	Willful molestation, possession, or removal of a commercial harvester's trap contents or trap gear by another harvester.
	(2) (c) 3.		
784	381.0041 (11) (b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
785	440.10 (1) (g)	2nd	Failure to obtain workers' compensation

	7-00662C-14		2014780__
			coverage.
786	440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
787	440.381(2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
788	624.401(4)(b)2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
789	626.902(1)(c)	2nd	Representing an unauthorized insurer; repeat offender.
790	790.01(2)	3rd	Carrying a concealed firearm.
791			

Page 41 of 89

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	7-00662C-14		2014780__
	790.162	2nd	Threat to throw or discharge destructive device.
792	790.163(1)	2nd	False report of deadly explosive or weapon of mass destruction.
793	790.221(1)	2nd	Possession of short- barreled shotgun or machine gun.
794	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
795	800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years.
796	800.04(7)(b)	2nd	Lewd or lascivious exhibition; offender 18 years or older.
797	806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.

Page 42 of 89

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798	7-00662C-14	2014780	
	812.0145(2)(b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
799			
	812.015(8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
800			
	812.019(1)	2nd	Stolen property; dealing in or trafficking in.
801			
	812.131(2)(b)	3rd	Robbery by sudden snatching.
802			
	812.16(2)	3rd	Owning, operating, or conducting a chop shop.
803			
	817.034(4)(a)2.	2nd	Communications fraud, value \$20,000 to \$50,000.
804			
	817.234(11)(b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
805			

Page 43 of 89

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	7-00662C-14	2014780	
	817.2341(1),	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
	(2)(a) & (3)(a)		
806			
	817.568(2)(b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more individuals.
807			
	817.625(2)(b)	2nd	Second or subsequent fraudulent use of scanning device or reencoder.
808			
	825.1025(4)	3rd	Lewd or lascivious exhibition in the presence of an elderly

Page 44 of 89

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	7-00662C-14		2014780	
				person or disabled adult.
809	827.071(4)	2nd		Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
810	827.071(5)	3rd		Possess, control, or intentionally view any photographic material, motion picture, etc., which includes sexual conduct by a child.
811	839.13(2)(b)	2nd		Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
812	843.01	3rd		Resist officer with violence to person; resist arrest with violence.
813	847.0135(5)(b)	2nd		Lewd or lascivious

Page 45 of 89

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

	7-00662C-14		2014780	
				exhibition using computer; offender 18 years or older.
814	847.0137 (2) & (3)	3rd		Transmission of pornography by electronic device or equipment.
815	847.0138 (2) & (3)	3rd		Transmission of material harmful to minors to a minor by electronic device or equipment.
816	874.05(1)(b)	2nd		Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
817	874.05(2)(a)	2nd		Encouraging or recruiting person under 13 to join a criminal gang.
818	893.13(1)(a)1.	2nd		Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a),

Page 46 of 89

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

7-00662C-14

2014780__

819

893.13(1)(c)2.

2nd

(2)(b), or (2)(c)4.
drugs).

Sell, manufacture, or
deliver cannabis (or
other s. 893.03(1)(c),
(2)(c)1., (2)(c)2.,
(2)(c)3., (2)(c)5.,
(2)(c)6., (2)(c)7.,
(2)(c)8., (2)(c)9., (3),
or (4) drugs) within
1,000 feet of a child
care facility, school,
or state, county, or
municipal park or
publicly owned
recreational facility or
community center.

820

893.13(1)(d)1.

1st

Sell, manufacture, or
deliver cocaine (or
other s. 893.03(1)(a),
(1)(b), (1)(d), (2)(a),
(2)(b), or (2)(c)4.
drugs) within 1,000 feet
of university.

821

893.13(1)(e)2.

2nd

Sell, manufacture, or
deliver cannabis or

Page 47 of 89

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7-00662C-14

2014780__

822

893.13(1)(f)1.

1st

other drug prohibited
under s. 893.03(1)(c),
(2)(c)1., (2)(c)2.,
(2)(c)3., (2)(c)5.,
(2)(c)6., (2)(c)7.,
(2)(c)8., (2)(c)9., (3),
or (4) within 1,000 feet
of property used for
religious services or a
specified business site.

823

893.13(4)(b)

2nd

Deliver to minor
cannabis (or other s.
893.03(1)(c), (2)(c)1.,
(2)(c)2., (2)(c)3.,
(2)(c)5., (2)(c)6.,
(2)(c)7., (2)(c)8.,
(2)(c)9., (3), or (4)
drugs).

824

Page 48 of 89

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

	7-00662C-14		2014780
	893.1351(1)	3rd	Ownership, lease, or rental for trafficking in or manufacturing of controlled substance.
825			
826	(g) LEVEL 7		
827			
	Florida	Felony	
	Statute	Degree	Description
828	316.027(1)(b)	1st	Accident involving death, failure to stop; leaving scene.
829	316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
830	316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
831	327.35(3)(c)2.	3rd	Vessel BUI resulting in

	7-00662C-14		2014780
			serious bodily injury.
832	402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
	409.920	3rd	Medicaid provider fraud; \$10,000 or less.
	(2)(b)1.a.		
834	409.920	2nd	Medicaid provider fraud; more than \$10,000, but less than \$50,000.
	(2)(b)1.b.		
835	456.065(2)	3rd	Practicing a health care profession without a license.
836	456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
	458.327(1)	3rd	Practicing medicine without a license.
838	459.013(1)	3rd	Practicing osteopathic

	7-00662C-14		2014780__	
			medicine without a	
			license.	
839	460.411(1)	3rd	Practicing chiropractic	
			medicine without a	
			license.	
840	461.012(1)	3rd	Practicing podiatric	
			medicine without a	
			license.	
841	462.17	3rd	Practicing naturopathy	
			without a license.	
842	463.015(1)	3rd	Practicing optometry	
			without a license.	
843	464.016(1)	3rd	Practicing nursing without	
			a license.	
844	465.015(2)	3rd	Practicing pharmacy	
			without a license.	
845	466.026(1)	3rd	Practicing dentistry or	
			dental hygiene without a	
			license.	
846	467.201	3rd	Practicing midwifery	
			without a license.	

Page 51 of 89

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

	7-00662C-14		2014780__	
847	468.366	3rd	Delivering respiratory	
			care services without a	
			license.	
848	483.828(1)	3rd	Practicing as clinical	
			laboratory personnel	
			without a license.	
849	483.901(9)	3rd	Practicing medical physics	
			without a license.	
850	484.013(1)(c)	3rd	Preparing or dispensing	
			optical devices without a	
			prescription.	
851	484.053	3rd	Dispensing hearing aids	
			without a license.	
852	494.0018(2)	1st	Conviction of any	
			violation of ss. 494.001-	
			494.0077 in which the	
			total money and property	
			unlawfully obtained	
			exceeded \$50,000 and there	
			were five or more victims.	
853	560.123(8)(b)1.	3rd	Failure to report currency	
			or payment instruments	

Page 52 of 89

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	7-00662C-14		2014780__	
			exceeding \$300 but less	
			than \$20,000 by a money	
			services business.	
854	560.125(5) (a)	3rd	Money services business by	
			unauthorized person,	
			currency or payment	
			instruments exceeding \$300	
			but less than \$20,000.	
855	655.50(10) (b) 1.	3rd	Failure to report	
			financial transactions	
			exceeding \$300 but less	
			than \$20,000 by financial	
			institution.	
856	775.21(10) (a)	3rd	Sexual predator; failure	
			to register; failure to	
			renew driver's license or	
			identification card; other	
			registration violations.	
857	775.21(10) (b)	3rd	Sexual predator working	
			where children regularly	
			congregate.	
858	775.21(10) (g)	3rd	Failure to report or	
			providing false	
			information about a sexual	

	7-00662C-14		2014780__	
			predator; harbor or	
			conceal a sexual predator.	
859	782.051(3)	2nd	Attempted felony murder of	
			a person by a person other	
			than the perpetrator or	
			the perpetrator of an	
			attempted felony.	
860	782.07(1)	2nd	Killing of a human being	
			by the act, procurement,	
			or culpable negligence of	
			another (manslaughter).	
861	782.071	2nd	Killing of a human being	
			or viable fetus by the	
			operation of a motor	
			vehicle in a reckless	
			manner (vehicular	
			homicide).	
862	782.072	2nd	Killing of a human being	
			by the operation of a	
			vessel in a reckless	
			manner (vessel homicide).	
863	784.045(1) (a) 1.	2nd	Aggravated battery;	
			intentionally causing	
			great bodily harm or	

878 7-00662C-14 2014780__
 790.165(2) 2nd Manufacture, sell,
 possess, or deliver hoax
 bomb.
 879 790.165(3) 2nd Possessing, displaying, or
 threatening to use any
 hoax bomb while committing
 or attempting to commit a
 felony.
 880 790.166(3) 2nd Possessing, selling,
 using, or attempting to
 use a hoax weapon of mass
 destruction.
 881 790.166(4) 2nd Possessing, displaying, or
 threatening to use a hoax
 weapon of mass destruction
 while committing or
 attempting to commit a
 felony.
 882 790.23 1st,PBL Possession of a firearm by
 a person who qualifies for
 the penalty enhancements
 provided for in s. 874.04.
 883 794.08(4) 3rd Female genital mutilation;

Page 57 of 89

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7-00662C-14 2014780__
 consent by a parent,
 guardian, or a person in
 custodial authority to a
 victim younger than 18
 years of age.
 884 796.03 2nd Procuring any person under
 16 years for prostitution.
 885 800.04(5)(c)1. 2nd Lewd or lascivious
 molestation; victim less
 than 12 years of age;
 offender less than 18
 years.
 886 800.04(5)(c)2. 2nd Lewd or lascivious
 molestation; victim 12
 years of age or older but
 less than 16 years;
 offender 18 years or
 older.
 887 806.01(2) 2nd Maliciously damage
 structure by fire or
 explosive.
 888 810.02(3)(a) 2nd Burglary of occupied
 dwelling; unarmed; no
 assault or battery.

Page 58 of 89

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

	7-00662C-14		2014780__
889	810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
890	810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
891	810.02(3)(e)	2nd	Burglary of authorized emergency vehicle.
892	812.014(2)(a)1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
893	812.014(2)(b)2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
894	812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.

Page 59 of 89

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

	7-00662C-14		2014780__
895	812.014(2)(b)4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
896	812.0145(2)(a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
897	812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
898	812.131(2)(a)	2nd	Robbery by sudden snatching.
899	812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
900	817.034(4)(a)1.	1st	Communications fraud, value greater than \$50,000.
901	817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims

Page 60 of 89

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

	7-00662C-14		2014780	with intent to defraud.
902				
	817.234 (9)	2nd		Organizing, planning, or participating in an intentional motor vehicle collision.
903				
	817.234 (11) (c)	1st		Insurance fraud; property value \$100,000 or more.
904				
	817.2341 (2) (b) & (3) (b)	1st		Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
905				
	817.535 (2) (a)	3rd		Filing false lien or other unauthorized document.
906				
	825.102 (3) (b)	2nd		Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
907				
	825.103 (2) (b)	2nd		Exploiting an elderly

Page 61 of 89

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

	7-00662C-14		2014780	person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
908				
	827.03 (2) (b)	2nd		Neglect of a child causing great bodily harm, disability, or disfigurement.
909				
	827.04 (3)	3rd		Impregnation of a child under 16 years of age by person 21 years of age or older.
910				
	837.05 (2)	3rd		Giving false information about alleged capital felony to a law enforcement officer.
911				
	838.015	2nd		Bribery.
912				
	838.016	2nd		Unlawful compensation or reward for official behavior.
913				
	838.021 (3) (a)	2nd		Unlawful harm to a public servant.
914				

Page 62 of 89

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

	7-00662C-14		2014780__
915	838.22	2nd	Bid tampering.
	843.0855(2)	3rd	Impersonation of a public officer or employee.
916	843.0855(3)	3rd	Unlawful simulation of legal process.
917	843.0855(4)	3rd	Intimidation of a public officer or employee.
918	847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
919	847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
920	872.06	2nd	Abuse of a dead human body.
921	874.05(2)(b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
922	874.10	1st,PBL	Knowingly initiates,

Page 63 of 89

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

	7-00662C-14		2014780__
			organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
923	893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
924	893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.

Page 64 of 89

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

	7-00662C-14		2014780__
925	893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
926	893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
927	893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
928	893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
929	893.135(1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
930	893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
931			

Page 65 of 89

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

	7-00662C-14		2014780__
	893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
932	893.135 (1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
933	893.135 (1)(h)1.a.	1st	Trafficking in gamma- hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
934	893.135 (1)(j)1.a.	1st	Trafficking in 1,4- Butanediol, 1 kilogram or more, less than 5 kilograms.
935	893.135 (1)(k)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
936	893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
937	896.101(5)(a)	3rd	Money laundering,

Page 66 of 89

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

	7-00662C-14		2014780	
				financial transactions exceeding \$300 but less than \$20,000.
938	896.104 (4) (a) 1.	3rd		Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
939	943.0435 (4) (c)	2nd		Sexual offender vacating permanent residence; failure to comply with reporting requirements.
940	943.0435 (8)	2nd		Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
941	943.0435 (9) (a)	3rd		Sexual offender; failure to comply with reporting requirements.
942	943.0435 (13)	3rd		Failure to report or providing false information about a sexual

Page 67 of 89

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

	7-00662C-14		2014780	
				offender; harbor or conceal a sexual offender.
943	943.0435 (14)	3rd		Sexual offender; failure to report and reregister; failure to respond to address verification.
944	944.607 (9)	3rd		Sexual offender; failure to comply with reporting requirements.
945	944.607 (10) (a)	3rd		Sexual offender; failure to submit to the taking of a digitized photograph.
946	944.607 (12)	3rd		Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
947	944.607 (13)	3rd		Sexual offender; failure to report and reregister; failure to respond to address verification.
948	985.4815 (10)	3rd		Sexual offender; failure to submit to the taking of

Page 68 of 89

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

	7-00662C-14		2014780__
949			a digitized photograph.
	985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
950			
	985.4815(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
951			
952	(h) LEVEL 8		
953			
	Florida	Felony	
	Statute	Degree	Description
954			
	316.193	2nd	DUI manslaughter.
	(3) (c) 3.a.		
955			
	316.1935(4) (b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or death.
956			
	327.35(3) (c) 3.	2nd	Vessel BUI manslaughter.
957			
	499.0051(7)	1st	Knowing trafficking in

	7-00662C-14		2014780	
958			contraband prescription drugs.	
959	499.0051(8)	1st	Knowing forgery of prescription labels or prescription drug labels.	
960	560.123(8) (b) 2.	2nd	Failure to report currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000 by money transmitter.	
961	560.125(5) (b)	2nd	Money transmitter business by unauthorized person, currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000.	
962	655.50(10) (b) 2.	2nd	Failure to report financial transactions totaling or exceeding \$20,000, but less than \$100,000 by financial institutions.	

	7-00662C-14		2014780__
963	777.03(2)(a)	1st	Accessory after the fact, capital felony.
	782.04(4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aggravated fleeing or eluding with serious bodily injury or death, aircraft piracy, or unlawfully discharging bomb.
964	782.051(2)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).
965	782.071(1)(b)	1st	Committing vehicular homicide and failing to render aid or give information.
966	782.072(2)	1st	Committing vessel homicide and failing to

Page 71 of 89

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

	7-00662C-14		2014780__
			render aid or give information.
967	787.06(3)(b)	1st	Human trafficking using coercion for commercial sexual activity.
968	787.06(3)(c)	1st	Human trafficking using coercion for labor and services of an unauthorized alien.
969	787.06(3)(f)	1st	Human trafficking using coercion for commercial sexual activity by the transfer or transport of any individual from outside Florida to within the state.
970	790.161(3)	1st	Discharging a destructive device which results in bodily harm or property damage.
971	794.011(5)	2nd	Sexual battery, victim 12 years or over, offender does not use physical force likely to cause

Page 72 of 89

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

7-00662C-14 2014780__

972 serious injury.

794.08(3) 2nd Female genital
mutilation, removal of a
victim younger than 18
years of age from this
state.

973 800.04(4) 2nd Lewd or lascivious
battery.

974 806.01(1) 1st Maliciously damage
dwelling or structure by
fire or explosive,
believing person in
structure.

975 810.02(2)(a) 1st,PBL Burglary with assault or
battery.

976 810.02(2)(b) 1st,PBL Burglary; armed with
explosives or dangerous
weapon.

977 810.02(2)(c) 1st Burglary of a dwelling or
structure causing
structural damage or
\$1,000 or more property
damage.

Page 73 of 89

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7-00662C-14 2014780__

978 812.014(2)(a)2. 1st Property stolen; cargo
valued at \$50,000 or
more, grand theft in 1st
degree.

979 812.13(2)(b) 1st Robbery with a weapon.

980 812.135(2)(c) 1st Home-invasion robbery, no
firearm, deadly weapon,
or other weapon.

981 817.535(2)(b) 2nd Filing false lien or
other unauthorized
document; second or
subsequent offense.

982 817.535(3)(a) 2nd Filing false lien or
other unauthorized
document; property owner
is a public officer or
employee.

983 817.535(4)(a)1. 2nd Filing false lien or
other unauthorized
document; defendant is
incarcerated or under
supervision.

984

Page 74 of 89

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

	7-00662C-14		2014780__
985	817.535(5)(a)	2nd	Filing false lien or other unauthorized document; owner of the property incurs financial loss as a result of the false instrument.
	817.568(6)	2nd	Fraudulent use of personal identification information of an individual under the age of 18.
986	825.102(2)	1st	Aggravated abuse of an elderly person or disabled adult.
987	825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
988	825.103(2)(a)	1st	Exploiting an elderly person or disabled adult and property is valued at \$100,000 or more.
989	837.02(2)	2nd	Perjury in official proceedings relating to prosecution of a capital

Page 75 of 89

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

	7-00662C-14		2014780__
990			felony.
	837.021(2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.
991	860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
992	860.16	1st	Aircraft piracy.
993	893.13(1)(b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
994	893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
995	893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s.

Page 76 of 89

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	7-00662C-14		2014780	
				893.03(1)(a) or (b).
996	893.135(1)(a)2.	1st		Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
997	893.135 (1)(b)1.b.	1st		Trafficking in cocaine, more than 200 grams, less than 400 grams.
998	893.135 (1)(c)1.b.	1st		Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
999	893.135 (1)(d)1.b.	1st		Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
1000	893.135 (1)(e)1.b.	1st		Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
1001	893.135 (1)(f)1.b.	1st		Trafficking in amphetamine, more than 28 grams, less than 200 grams.

Page 77 of 89

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

	7-00662C-14		2014780	
1002	893.135 (1)(g)1.b.	1st		Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
1003	893.135 (1)(h)1.b.	1st		Trafficking in gamma- hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
1004	893.135 (1)(j)1.b.	1st		Trafficking in 1,4- Butanediol, 5 kilograms or more, less than 10 kilograms.
1005	893.135 (1)(k)2.b.	1st		Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.
1006	893.1351(3)	1st		Possession of a place used to manufacture controlled substance when minor is present or resides there.
1007	895.03(1)	1st		Use or invest proceeds

Page 78 of 89

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

	7-00662C-14		2014780	derived from pattern of racketeering activity.
1008	895.03(2)	1st		Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
1009	895.03(3)	1st		Conduct or participate in any enterprise through pattern of racketeering activity.
1010	896.101(5)(b)	2nd		Money laundering, financial transactions totaling or exceeding \$20,000, but less than \$100,000.
1011	896.104(4)(a)2.	2nd		Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$20,000 but less than \$100,000.
1012				

Page 79 of 89

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

	7-00662C-14		2014780	
1013	(i) LEVEL 9			
1014	Florida Statute	Felony Degree		Description
1015	316.193 (3)(c)3.b.	1st		DUI manslaughter; failing to render aid or give information.
1016	327.35(3)(c)3.b.	1st		BUI manslaughter; failing to render aid or give information.
1017	409.920 (2)(b)1.c.	1st		Medicaid provider fraud; \$50,000 or more.
1018	499.0051(9)	1st		Knowing sale or purchase of contraband prescription drugs resulting in great bodily harm.
1019	560.123(8)(b)3.	1st		Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
1020	560.125(5)(c)	1st		Money transmitter

Page 80 of 89

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	7-00662C-14		2014780__	business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
1021	655.50(10)(b)3.	1st		Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.
1022	775.0844	1st		Aggravated white collar crime.
1023	782.04(1)	1st		Attempt, conspire, or solicit to commit premeditated murder.
1024	782.04(3)	1st,PBL		Accomplice to murder in connection with arson, sexual battery, robbery, burglary, aggravated fleeing or eluding with serious bodily injury or death, and other specified felonies.
1025	782.051(1)	1st		Attempted felony murder

Page 81 of 89

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	7-00662C-14		2014780__	while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).
1026	782.07(2)	1st		Aggravated manslaughter of an elderly person or disabled adult.
1027	787.01(1)(a)1.	1st,PBL		Kidnapping; hold for ransom or reward or as a shield or hostage.
1028	787.01(1)(a)2.	1st,PBL		Kidnapping with intent to commit or facilitate commission of any felony.
1029	787.01(1)(a)4.	1st,PBL		Kidnapping with intent to interfere with performance of any governmental or political function.
1030	787.02(3)(a)	1st		False imprisonment; child under age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd

Page 82 of 89

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	7-00662C-14		2014780__	
			or lascivious battery, molestation, conduct, or exhibition.	
1031	787.06(3)(d)	1st	Human trafficking using coercion for commercial sexual activity of an unauthorized alien.	
1032	787.06(3)(g)	1st,PBL	Human trafficking for commercial sexual activity of a child under the age of 18.	
1033	787.06(4)	1st	Selling or buying of minors into human trafficking.	
1034	790.161	1st	Attempted capital destructive device offense.	
1035	790.166(2)	1st,PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.	
1036	794.011(2)	1st	Attempted sexual battery; victim less	

Page 83 of 89

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	7-00662C-14		2014780__	
			than 12 years of age.	
1037	794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.	
1038	794.011(4)	1st	Sexual battery; victim 12 years or older, certain circumstances.	
1039	794.011(8)(b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.	
1040	794.08(2)	1st	Female genital mutilation; victim younger than 18 years of age.	
1041	796.035	1st	Selling or buying of minors into prostitution.	
1042	800.04(5)(b)	Life	Lewd or lascivious molestation; victim less	

Page 84 of 89

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	7-00662C-14		2014780	
			than 12 years; offender	
			18 years or older.	
1043	812.13(2) (a)	1st,PBL	Robbery with firearm or	
			other deadly weapon.	
1044	812.133(2) (a)	1st,PBL	Carjacking; firearm or	
			other deadly weapon.	
1045	812.135(2) (b)	1st	Home-invasion robbery	
			with weapon.	
1046	817.535(3) (b)	1st	Filing false lien or	
			other unauthorized	
			document; second or	
			subsequent offense;	
			property owner is a	
			public officer or	
			employee.	
1047	817.535(4) (a)2.	1st	Filing false claim or	
			other unauthorized	
			document; defendant is	
			incarcerated or under	
			supervision.	
1048	817.535(5) (b)	1st	Filing false lien or	
			other unauthorized	
			document; second or	

Page 85 of 89

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	7-00662C-14		2014780	
			subsequent offense;	
			owner of the property	
			incurs financial loss as	
			a result of the false	
			instrument.	
1049	817.568(7)	2nd, PBL	Fraudulent use of	
			personal identification	
			information of an	
			individual under the age	
			of 18 by his or her	
			parent, legal guardian,	
			or person exercising	
			custodial authority.	
1050	827.03(2) (a)	1st	Aggravated child abuse.	
1051	847.0145(1)	1st	Selling, or otherwise	
			transferring custody or	
			control, of a minor.	
1052	847.0145(2)	1st	Purchasing, or otherwise	
			obtaining custody or	
			control, of a minor.	
1053	859.01	1st	Poisoning or introducing	
			bacteria, radioactive	
			materials, viruses, or	
			chemical compounds into	

Page 86 of 89

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	7-00662C-14		2014780	
				food, drink, medicine, or water with intent to kill or injure another person.
1054	893.135	1st		Attempted capital trafficking offense.
1055	893.135 (1) (a) 3.	1st		Trafficking in cannabis, more than 10,000 lbs.
1056	893.135 (1) (b) 1.c.	1st		Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
1057	893.135 (1) (c) 1.c.	1st		Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
1058	893.135 (1) (d) 1.c.	1st		Trafficking in phencyclidine, more than 400 grams.
1059	893.135 (1) (e) 1.c.	1st		Trafficking in methaqualone, more than 25 kilograms.
1060	893.135	1st		Trafficking in

Page 87 of 89

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	7-00662C-14		2014780	
	(1) (f) 1.c.			amphetamine, more than 200 grams.
1061	893.135 (1) (h) 1.c.	1st		Trafficking in gamma- hydroxybutyric acid (GHB), 10 kilograms or more.
1062	893.135 (1) (j) 1.c.	1st		Trafficking in 1,4- Butanediol, 10 kilograms or more.
1063	893.135 (1) (k) 2.c.	1st		Trafficking in Phenethylamines, 400 grams or more.
1064	896.101 (5) (c)	1st		Money laundering, financial instruments totaling or exceeding \$100,000.
1065	896.104 (4) (a) 3.	1st		Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$100,000.
1066				
1067				

Page 88 of 89

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7-00662C-14

2014780__

1068

Section 5. This act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator Greg Evers, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: February 6, 2014

I respectfully request that **Senate Bill # 780**, relating to Controlled Substances, be placed on the:

- ☒ committee agenda at your earliest possible convenience.
- ☐ next committee agenda.

A handwritten signature in black ink, appearing to read "Rob Bradley", is written over a horizontal line.

Senator Rob Bradley
Florida Senate, District 7

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/3/14

Meeting Date

Topic SB 780

Name Casey Cook

Job Title Legislative Advocate

Address PO Box 1757

Street

Tallahassee

City

FL

State

32302

Zip

Bill Number 780

Amendment Barcode _____
(if applicable)

Phone 701 3701

E-mail ccook@flcities.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date _____

Topic Synthetic Drugs

Bill Number 780
(if applicable)

Name Andrew Fay

Amendment Barcode _____
(if applicable)

Job Title Assistant Attorney General

Address PL 03
Street

Phone 245-0155

City _____ *State* _____ *Zip* _____

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing Office of the Attorney General

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

*** WAIVE IN SUPPORT!**

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

thank you!

3/3/14

Meeting Date

Topic

Controlled Substances

Name

Lisa Hurley

Bill Number

780

(if applicable)

Amendment Barcode

(if applicable)

Job Title

Address

100 S Monroe

Street

Gallahassee FL 32301

City

State

Zip

Phone

888.922.4300

E-mail

lhurley@fl-cred.com

Speaking:

☒

For

☐

Against

☐

Information

Representing

FL Assoc of Counties

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 978

INTRODUCER: Senator Evers

SUBJECT: Crime Stoppers Trust Fund

DATE: February 24, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sumner	Cannon	CJ	Favorable
2.			CA	
3.			AP	

I. Summary:

SB 978 amends s. 16.555, F.S., to authorize a county to use funds from the Crime Stopper Trust Fund for promotional items for the purpose of increasing public awareness and educating the public about Crime Stoppers.

II. Present Situation:

Section 16.555, F.S., provides a funding mechanism for Crime Stopper programs.¹ The Department of Legal Affairs is required to make applications for all federal and state or private grants which meet the purposes of advancing Crime Stoppers in the state; establish a trust fund to administer grants to fund Crime Stoppers and its crime fighting programs within the units of local government; and administer and disburse the funds.

Proceeds of the court cost of \$20 on fines for criminal offenses collected by the clerks of the courts for county and circuit courts are deposited in a separate account in the trust fund. The clerks retain \$3 per assessment as a service charge and forward the money to the Department of Revenue for deposit in the Crime Stoppers Trust Fund.² The funds are to be designated according to the judicial circuit in where it was collected. However, grants may be awarded only to counties which are served by an official member of the Florida Association of Crime Stoppers.

Crime Stoppers began in Albuquerque, New Mexico in 1976. A homicide detective with the Albuquerque Police asked a local television station to broadcast a re-enactment of an unsolved murder on its newscast. A reward was offered and a caller contacted the police the next day with a tip that led the police to the two men who were responsible. The success of this concept

¹ Section 16.555(1)(c) defines "Crime Stoppers" as the Florida Association of Crime Stoppers Incorporated, a Florida Corporation.

² Section 938.06, F.S.

launched a program which is now internationally known as “Crime Stopper.” There are now over 1,200 Crime Stoppers programs worldwide.

The Central Florida Crime Watch Program, now Central Florida Crimeline, was formed one year after the first Crime Stoppers program. Today there are 32 programs in Florida operating under the name the Florida Association of Crime Stoppers, Inc.³

III. Effect of Proposed Changes:

The bill amends s. 16.555, F.S., to authorize a county that is awarded funds from the Crime Stopper Trust Fund to purchase and distribute promotional items to increase public awareness and educate the public about Crime Stoppers.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

The bill would allow for trust funds be used to purchase and distribute promotional items.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

³ <http://www.facsflorida.org/pages/who> (last visited February 24, 2014).

VIII. Statutes Affected:

This bill substantially amends section 16.555 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Evers

2-01148-14

2014978__

A bill to be entitled

An act relating to the Crime Stoppers Trust Fund; amending s. 16.555, F.S.; authorizing a county that is awarded funds from the trust fund to use such funds for promotional items; making technical changes; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (5) of section 16.555, Florida Statutes, is amended to read:

16.555 Crime Stoppers Trust Fund; rulemaking.—

(5) (a) The department shall be the disbursing authority for the distribution of funding to units of local government that ~~apply, upon their application~~ to the department for funding assistance.

(b) Funds deposited in the trust fund pursuant to paragraph (4) (b) shall be disbursed as provided in this paragraph. A ~~Any~~ county may apply to the department under s. 938.06 for a grant from the funds collected in the judicial circuit in which the county is located ~~under s. 938.06~~. A grant may be awarded only to counties ~~that which~~ are served by an official member of the Florida Association of Crime Stoppers and may ~~only~~ be used only to support Crime Stoppers and ~~its their~~ crime fighting programs. Only one such official member ~~is shall be~~ eligible for support within any county. In order to aid the department in determining eligibility, the secretary of the Florida Association of Crime Stoppers shall furnish the department with a schedule of authorized crime stoppers programs and shall update the schedule

Page 1 of 2

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2-01148-14

2014978__

as necessary. The department shall award grants to eligible counties from available funds and shall distribute funds as equitably as possible, based on amounts collected within each county, ~~if when~~ more than one county is eligible within a judicial circuit.

(c) A county that is awarded funds under this section may use such funds to purchase and distribute promotional items to increase public awareness and educate the public about Crime Stoppers.

Section 2. This act shall take effect July 1, 2014.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 1060

INTRODUCER: Senator Evers

SUBJECT: Code of Student Conduct

DATE: February 24, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	Favorable
2.			ED	
3.			JU	

I. Summary:

SB 1060 clarifies that students should not be disciplined for simulating a firearm or weapon while playing or wearing clothing or accessories which depict a firearm or weapon or expressing an opinion regarding Second Amendment rights. The bill defines simulating a firearm or weapon while playing to include:

- Brandishing a partially consumed pastry or other food item to simulate a firearm or weapon;
- Possessing a toy firearm or weapon which is two inches or less in overall length;
- Possessing a toy firearm or weapon made of plastic snap-together building blocks;
- Using a finger or hand to simulate a firearm or weapon;
- Vocalizing sounds of an imaginary firearm or weapon;
- Drawing a picture of, or possessing an image of, a firearm or weapon; or
- Using a pencil, pen, or other writing or drawing utensil to simulate a firearm or weapon.

The bill preserves school board authority to discipline students when simulating a firearm or weapon substantially disrupts student learning, causes bodily harm to another person, or places another person in reasonable fear of bodily harm. Consequences imposed upon a student must be proportionate to the severity of the infraction and consistent with school board policies for similar infractions.

Disciplinary actions involving student clothing or accessories must be addressed according to the statutorily prescribed interventions for dress code violations, unless wearing the clothing item or accessory causes a substantial disruption to student learning. If it does, the infraction may be addressed in a manner that is consistent with school board policies for similar infractions.

II. Present Situation:

Gun and Weapon Free Schools

Generally speaking, the disciplinary policies of public schools nationwide include measures for deterring student firearm and weapon possession in schools by imposing consistent and firm consequences for such behavior.¹ In recent years, news reports from across the country indicate several incidents in which penalties applied to actual student firearm and weapon possession, such as suspension or expulsion, were imposed on students for simulating a firearm or weapon while playing or wearing clothing or accessories depicting firearms or support for firearms rights. A number of these incidents involved children under the age of 10 years old.² Examples of these incidents include students who:

- Chewed a breakfast pastry into the shape of a gun;³
- Possessed a miniature gun keychain;⁴
- Possessed a tiny Lego action figure gun or built a gun with Lego blocks;⁵
- Used a finger as an imaginary gun and vocalized the sound of a gun;⁶
- Drew a picture of a gun or a person holding a gun;⁷ and
- Wore a National Rifle Association T-shirt to school.⁸

¹ National Association of School Psychologists, *Zero Tolerance and Alternative Strategies: A Fact Sheet for Educators and Policy Makers*, http://www.nasponline.org/resources/factsheets/zt_fs.aspx (last visited February 19, 2014).

² See, e.g., Aronson, Gavin. "Blam! These Tykes Got Busted for "Guns" Made of Legos, Pop-Tarts, and Paper," Mother Jones, (March 8, 2013), <http://www.motherjones.com/politics/2013/03/zero-tolerance-guns-schools-newtown>.

³ See, e.g., St. George, Donna. "Boy Suspended for Chewing Breakfast Pastry into a Gun Shape Will Get Hearing" (Sept. 13, 2013), http://articles.washingtonpost.com/2013-09-13/local/42025625_1_hearing-examiner-pastry-school-officials.

⁴ See, e.g., NBC 10, Cranston, RI, *7th Grader Suspended for Having Gun Keychain* (Sept. 27, 2013), <http://www.turnto10.com/story/23551467/7th-grader-suspended-for-having-gun-keychain>.

⁵ See, e.g., ABC 40, Springfield, MA, "Toy Gun Causes Disturbance on Palmer Elementary School Bus" (May 24th, 2013), <http://www.wggb.com/2013/05/24/toy-gun-causes-disturbance-on-palmer-elementary-school-bus/>; see, e.g., Starnes, Todd. "Child Faces Suspension for Making Lego Gun," Fox News (Jan. 29, 2013), <http://radio.foxnews.com/toddstarnes/top-stories/child-facessuspension-for-making-lego-gun.html>.

⁶ See, e.g., Fox News, "Florida Boy, 8, Suspended From School After Using Finger As Imaginary Gun" (Oct. 2, 2013), <http://www.foxnews.com/us/2013/10/02/florida-boy-8-suspended-from-school-after-using-finger-as-pretend-gun/>. This student's suspension was reversed by the school board. WKMG Local 6, Orlando, FL, "Pretend Gun Suspension Reversed," (Oct. 15, 2013), <http://www.clickorlando.com/news/pretend-gun-suspension-reversed/-/1637132/22456002/-/4tba6y/-/index.html>.

⁷ See, e.g., Owens, Eric. "Principal Threatens to Expel Third Grader Over These Awesome Drawings," The Daily Caller (Nov. 4, 2013), <http://dailycaller.com/2013/11/04/principal-threatens-to-expel-third-grader-over-these-awesome-drawings/>; see, e.g., CBS News, "13-Year-Old Suspended For Doodling Gun" (Feb. 11, 2009), <http://www.cbsnews.com/2100-201162-3197492.html>; see, e.g., Fox News, "Second Grade Student Suspended for Drawing Stick Figure Firing Gun" (Oct. 21, 2007), <http://www.foxnews.com/story/2007/10/21/second-grade-student-suspended-for-drawing-stick-figure-firing-gun/>.

⁸ See, e.g., Ramsey, Pam. "Student Charged After Refusing To Remove NRA Shirt," Huffington Post (April 21, 2013), http://www.huffingtonpost.com/2013/04/21/student-nra-shirt_n_3128715.html.

These incidents have fueled concerns regarding how best to balance the difficult job of maintaining an orderly and safe school environment with the need to exercise discretion when addressing student misconduct.⁹

Zero Tolerance Policies

The federal Gun Free Schools Act¹⁰ requires states receiving federal funds under the No Child Left Behind Act of 2001¹¹ to have in effect a state law requiring local education agencies (LEA)¹² to expel a student from school for a minimum of one year and refer him or her to the criminal justice or juvenile justice system if the LEA determines that the student brought a firearm to a school, or possessed a firearm at a school, under its jurisdiction.¹³ Among other things, the state law must allow the chief administering officer of the LEA to modify the expulsion requirement for a student on a case-by-case basis.¹⁴ A LEA, at its discretion, may provide educational services to an expelled student in an alternative educational setting.¹⁵

In compliance with the Gun Free Schools Act, Florida law requires each district school board to adopt a policy of zero tolerance for crime and victimization, which, among other things, requires that students found in possession of a firearm at school, at school functions, or on school transportation be expelled for a minimum of one year and referred to the criminal justice or juvenile justice system. Florida's zero tolerance law also applies to a student in possession of a weapon at school, at a school function, or on school transportation and also to threats or false reports regarding explosives, bombs, weapons of mass destruction, and destructive devices involving school or school personnel's property, school transportation, or school sponsored activities.¹⁶

Florida law defines the terms "firearm" and "weapon" as follows:

- "Firearm" means any weapon (including a starter gun) which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; any destructive device; or any

⁹ See, e.g., Aronson Gavin. "Blam! These Tykes Got Busted for "Guns" Made of Legos, Pop-Tarts, and Paper," Mother Jones, (March 8, 2013), <http://www.motherjones.com/politics/2013/03/zero-tolerance-guns-schools-newtown>; see, e.g., Dunn, Joshua. "The Prohibition of Childhood," National Review (Oct. 28, 2013).

¹⁰ Pub. L. No. 103-382, 108 Stat. 3518 (Oct. 20, 1994). States were required to comply with the Gun Free Schools Act by October 20, 1995. *Id.* The Florida Legislature enacted legislation in the 1995 General Session pursuant to the Act. Section 66, ch. 95-267, L.O.F., codified at s. 230.23(6)(d)10., F.S. (1995), now codified at ss. 1006.07 and 1006.13, F.S.

¹¹ Pub. L. No. 107-110, 115 Stat. 1425 (Jan. 8, 2002).

¹² Federal law broadly defines the term LEA to include state boards of education, state departments of education, local school boards, cities, counties, political subdivisions, public postsecondary institutions, or any other public entities that a state's law authorizes to administer public elementary and secondary schools. Each state determines which entities will serve as LEAs. See, e.g., 34 C.F.R. s. 77.1.

¹³ 20 U.S.C. s. 7151(b)(1) and (h)(1).

¹⁴ 20 U.S.C. s. 7151(b)(1).

¹⁵ 20 U.S.C. s. 7151(b)(2).

¹⁶Section 1006.13(3), F.S.; see s. 790.162 and 790.163, F.S. (relating to threats and false reports).

machine gun. The term “firearm” does not include an antique firearm unless the antique firearm is used in the commission of a crime.¹⁷

- “Weapon” means “any dirk, knife, metallic knuckles, slungshot, billie, tear gas gun, chemical weapon or device, or other deadly weapon except a firearm or a common pocketknife, plastic knife, or blunt-bladed table knife.”¹⁸

School boards must adhere to these definitions when determining punishments for school-related firearms and weapons infractions.¹⁹

School boards have discretion to provide continuing educational services to an expelled student in an alternative educational setting. A district school superintendent may consider the one-year expulsion requirement on a case-by-case basis and request that the school board modify the requirement by assigning the student to a disciplinary program or second chance school if it determines such modification is in the best interest of the student and the school system.²⁰

Florida law states that the purpose of zero tolerance policies is to protect students and staff from serious threats to school safety and the policies should not be applied to petty acts of misconduct and misdemeanors, including, but not limited to, minor fights or disturbances.²¹ Among other things, each district school board’s zero tolerance policy must define acts that pose a serious threat to school safety and petty acts of misconduct.²²

The Florida Department of Education’s policy statement on zero tolerance policies provides that it “is incumbent upon districts to use discretion and take a “common sense” approach to school discipline. District administrators must investigate and take into consideration mitigating circumstances (on a case-by-case basis) when determining appropriate disciplinary responses to student misconduct.”²³

Student Codes of Conduct

Each district school board must adopt a code of student conduct that includes consistent policies and specific grounds for disciplinary action, including in-school suspension, out-of-school suspension, expulsion, disciplinary actions for possession or use of alcohol on school property or while attending a school function, or for the illegal use, sale, or possession of controlled

¹⁷ Section 790.001(6), F.S. The Gun-Free Schools Act applies only to firearms possession by students at school. In contrast, Florida’s zero tolerance statute addresses both firearms and weapons possession. *See* 20 U.S.C. s. 7151(b)(3). The federal definition of “firearm” is similar to Florida’s. *See* 18 U.S.C. s. 921(a).

¹⁸ Section 790.001(13), F.S.

¹⁹ Sections 1006.07(2)(g) and 1006.13(3), F.S.

²⁰ Section 1006.13(3), F.S., (flush-left provision at end of subsection).

²¹ Section 1006.13(1), F.S.

²² Section 1006.13(2)(b) and (c), F.S.

²³ Florida Department of Education, *Florida Department of Education’s Position on Zero Tolerance* (2009), available at http://www.fldoe.org/safeschools/pdf/FDOE_Position_On_Zero_Tolerance.pdf.

substances.²⁴ Among other things, the code must include notice of disciplinary policies regarding student firearm and weapon possession.²⁵

Student codes of conduct must also include an explanation of student responsibilities regarding appropriate dress, respect for self and others, and the role that appropriate dress and respect for self and others has on an orderly learning environment. The law prescribes an escalating series of interventions which school boards must apply when addressing dress code violations:

- For a first offense, a student must be given a verbal warning and the school principal must call the student's parent or guardian.
- For a second offense, the student is ineligible to participate in any extracurricular activity for a period of time not to exceed five days and the school principal must meet with the student's parent or guardian.
- For a third or subsequent offense, a student must receive an in-school suspension for a period not to exceed three days, the student is ineligible to participate in any extracurricular activity for a period not to exceed 30 days, and the school principal must call the student's parent or guardian and send the parent or guardian a written letter regarding the student's in-school suspension and ineligibility to participate in extracurricular activities.²⁶

Student codes of conduct must be distributed to teachers, school personnel, students, and parents at the beginning of each school year.²⁷

III. Effect of Proposed Changes:

The bill clarifies that public school students should not be disciplined for simulating a firearm or weapon while playing or wearing clothing or accessories which depict a firearm or weapon or expressing an opinion regarding Second Amendment²⁸ rights. The bill defines simulating a firearm or weapon while playing to include, but not be limited to the following:

- Brandishing a partially consumed pastry or other food item to simulate a firearm or weapon;
- Possessing a toy firearm or weapon which is two inches or less in overall length;
- Possessing a toy firearm or weapon made of plastic snap-together building blocks;
- Using a finger or hand to simulate a firearm or weapon;
- Vocalizing sounds of an imaginary firearm or weapon;
- Drawing a picture of, or possessing an image of, a firearm or weapon; or
- Using a pencil, pen, or other writing or drawing utensil to simulate a firearm or weapon.

The bill preserves district school board authority to discipline students when simulating a firearm or weapon substantially disrupts student learning, causes bodily harm to another person, or places another person in reasonable fear of bodily harm. In such cases, the severity of any

²⁴ Section 1006.07(2)(a)-(b), F.S.

²⁵ Section 1006.07(2)(g), (l), and (m), F.S.

²⁶ Section 1006.07(2)(d), F.S.

²⁷ Section 1006.07(2), F.S.

²⁸ The Second Amendment of the U.S. Constitution states that "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." U.S. Const., Amend. 2.

consequences imposed upon a student must be proportionate to the severity of the infraction and consistent with school board policies for similar infractions. If a student is disciplined for such conduct, the school principal or his or her designee must call the student's parent. This allows school officials to address conduct that is truly disruptive.

Disciplinary actions involving student clothing or accessories must be addressed according to the statutorily prescribed interventions for dress code violations, unless the wearing of the clothing item or accessory causes a substantial disruption to student learning. If it does, the infraction may be addressed in a manner that is consistent with district school board policies for similar infractions. The bill provides that this new language does not prohibit a public school from adopting a school uniform policy.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1006.07 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Evers

2-00165A-14

20141060__

1 A bill to be entitled
 2 An act relating to the code of student conduct;
 3 amending s. 1006.07, F.S.; providing that simulating a
 4 firearm or weapon while playing or wearing certain
 5 clothing or accessories is not grounds for
 6 disciplinary action or referral to the criminal
 7 justice or juvenile justice system; providing actions
 8 that constitute simulating a firearm or weapon while
 9 playing; providing criteria for determining whether
 10 certain student conduct warrants disciplinary action;
 11 providing criteria for determining appropriate
 12 consequences for such conduct; providing an effective
 13 date.
 14
 15 Be It Enacted by the Legislature of the State of Florida:
 16
 17 Section 1. Paragraph (g) of subsection (2) of section
 18 1006.07, Florida Statutes, is amended to read:
 19 1006.07 District school board duties relating to student
 20 discipline and school safety.—The district school board shall
 21 provide for the proper accounting for all students, for the
 22 attendance and control of students at school, and for proper
 23 attention to health, safety, and other matters relating to the
 24 welfare of students, including:
 25 (2) CODE OF STUDENT CONDUCT.—Adopt a code of student
 26 conduct for elementary schools and a code of student conduct for
 27 middle and high schools and distribute the appropriate code to
 28 all teachers, school personnel, students, and parents, at the
 29 beginning of every school year. Each code shall be organized and

Page 1 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

2-00165A-14

20141060__

30 written in language that is understandable to students and
 31 parents and shall be discussed at the beginning of every school
 32 year in student classes, school advisory council meetings, and
 33 parent and teacher association or organization meetings. Each
 34 code shall be based on the rules governing student conduct and
 35 discipline adopted by the district school board and shall be
 36 made available in the student handbook or similar publication.
 37 Each code shall include, but is not limited to:
 38 (g) Notice that the possession of a firearm or weapon as
 39 defined in chapter 790 by any student while the student is on
 40 school property or in attendance at a school function is grounds
 41 for disciplinary action and may also result in criminal
 42 prosecution. Simulating a firearm or weapon while playing or
 43 wearing clothing or accessories that depict a firearm or weapon
 44 or expressing an opinion regarding a right guaranteed by the
 45 Second Amendment to the United States Constitution is not
 46 grounds for disciplinary action or referral to the criminal
 47 justice or juvenile justice system under this section or s.
 48 1006.13. Simulating a firearm or weapon while playing includes,
 49 but is not limited to:
 50 1. Brandishing a partially consumed pastry or other food
 51 item to simulate a firearm or weapon.
 52 2. Possessing a toy firearm or weapon that is 2 inches or
 53 less in overall length.
 54 3. Possessing a toy firearm or weapon made of plastic snap-
 55 together building blocks.
 56 4. Using a finger or hand to simulate a firearm or weapon.
 57 5. Vocalizing sounds of an imaginary firearm or weapon.
 58 6. Drawing a picture or possessing an image of a firearm or

Page 2 of 3

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2-00165A-14

20141060__

59 weapon.

60 7. Using a pencil, pen, or other writing or drawing utensil
61 to simulate a firearm or weapon.

62
63 However, a student may be subject to disciplinary action if
64 simulating a firearm or weapon while playing substantially
65 disrupts student learning, causes bodily harm to another person,
66 or places another person in reasonable fear of bodily harm. The
67 severity of consequences imposed upon a student, including
68 referral to the criminal justice or juvenile justice system,
69 must be proportionate to the severity of the infraction and
70 consistent with district school board policies for similar
71 infractions. If a student is disciplined for such conduct, the
72 school principal or his or her designee must call the student's
73 parent. Disciplinary action resulting from a student's clothing
74 or accessories shall be determined pursuant to paragraph (d)
75 unless the wearing of the clothing or accessory causes a
76 substantial disruption to student learning, in which case the
77 infraction may be addressed in a manner that is consistent with
78 district school board policies for similar infractions. This
79 paragraph does not prohibit a public school from adopting a
80 school uniform policy.

81 Section 2. This act shall take effect upon becoming a law.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3 Mch 14
Meeting Date

Topic _____

Bill Number SB 1060
(if applicable)

Name Barney Bishop III

Amendment Barcode _____
(if applicable)

Job Title President & CEO

Address 204 S. Monroe St., Suite 201
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City State Zip

Phone 850/907.3436

E-mail barney@barneybishop.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Fla. Smart Justice Alliance

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

TESTIFY LAST PLEASE

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-3-14

Meeting Date

Topic *ZERO TOLERANCE - Students*

Bill Number *SB-1060*

(if applicable)

Name *MARION P. HAMMER*

Amendment Barcode

(if applicable)

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Phone *850-222-9518*

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TALLAHASSEE

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32302

E-mail

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

Representing *NRA (NATIONAL RIFLE ASSOCIATION) UNITED SPORTSMEN OF FLORIDA*

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3 / 3 / 2014

Meeting Date

Topic _____

Bill Number 1060

(if applicable)

Name BRIAN PITTS

Amendment Barcode _____

(if applicable)

Job Title TRUSTEE

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Street

SAINT PETERSBURG

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FLORIDA

State

33705

Zip

Phone 727-897-9291

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☒ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this session.

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SPB 7030

INTRODUCER: For consideration by the Criminal Justice Committee

SUBJECT: Community Reentry Programs

DATE: February 6, 2014

REVISED: 02/19/14

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Sumner	Cannon		Summited as Committee Bill

I. Summary:

SPB 7030 requires the Department of Corrections (Department) to develop an operational plan to implement a vocational work-release pilot program in Santa Rosa, Escambia, Walton, and Okaloosa counties. The bill requires that inmates who are within 36 months of their release date be considered for participation in the program based upon a risk assessment.

II. Present Situation:

Community Work Release

The statutory authority for the Department of Corrections to offer a work release program is found in s. 945.091, F.S., entitled "Extension of the limits of confinement; restitution by employed inmates." Section 945.091(1)(b), F.S., specifically provides for the Department to adopt rules permitting the extension of the limits of confinement with the approval of the secretary or secretary's designee to leave the confines of the facility unaccompanied by a custodial agent for a proscribed period of time to:

- work at paid employment;
- participate in an education or training program; or
- voluntarily serve a public or nonprofit agency or faith –based service group in the community.

An inmate may participate in paid employment only during the last 36 months of confinement unless requested sooner by the Parole Commission or the Control Release Authority.¹ Inmates may also apply for placement at a contracted substance abuse transition housing program while working at paid employment and residing at a facility. An inmate may also request placement in a faith-based substance abuse transition housing program after the transition specialist consults with the chaplain prior to such placement.²

¹ s. 945.091(1)(b)1., F.S.

² s. 945.091(1)(b)2., F.S.

Community Release Programs

There are several categories of community release programs:

- Center Work Assignment (CWA) – inmate is assigned to a work release center to serve in a support capacity
- Community Release Program – program allowing inmates to work at paid employment or a center work assignment or to participate in education, training, substance abuse treatment programs, or any other transitional program to facilitate re-entry into the community while in a work release center, contract community work release facility, or other contract community facility
- Community Work Release (CWR) – community release program that allows inmates to work at paid employment in the community while continuing as inmates of the facility where they are confined
- Community Study Release – allows inmates to attend an education or vocational facility or participate in a training program in the community while continuing as inmates of the facility where they are confined
- Community Volunteer Service – allows inmates housed at a work release center or contract facility to voluntarily work with a governmental or nonprofit agency in the community³

Within the four northwest Florida counties affected by the bill, the Department reports that 1,450 inmates were admitted and 1,380 were released during Fiscal Year 2012-2013. The Department reports that this group of inmates could reasonably be assumed to have ties to the geographical area. According to the Department, an independent review of each case would be required to determine eligibility for the program in order to eliminate duplication between admissions and releases.

FY 12-13 Admissions & Releases for Counties included in Proposed Vocational Work Release Program		
County	Admissions⁴	Releases⁵
Santa Rosa	217	219
Escambia	785	793
Walton	95	79
Okaloosa	353	289
Total	1,450	1,380

Based upon the January 31, 2014 status file, the following information from the Department's Bureau of Research and Data Analysis reflects:

³ Rule 33-601.602, F.A.C.

⁴ Florida Department of Corrections 2012-2013 Agency Statistics-
http://www.dc.state.fl.us/pub/annual/1213/stats/ia_county_commitment.html (last viewed 2/7/14).

⁵ Florida Department of Corrections 2012-2013 Agency Statistics-
http://www.dc.state.fl.us/pub/annual/1213/stats/ir_county.html (last viewed 2/7/14).

- 255 inmates (221 male; 34 female) meet the basic criteria required for the proposed program – minimum custody, no murder charges/sex offenses, returning to or convicted out of the four county implementation area, and have between 37 months⁶ and 14 months left to serve on their sentence.
- The number of eligible inmates may be further reduced when considering other required needs.

Eligibility Requirements to Participate in Community Release Programs

To meet the eligibility requirements to participate in a community release program an inmate must:

- Be in community custody in accordance with Rule 33-601.210, F.A.C., or have a recommendation for community custody currently under review.
- Be in Department custody for 60 days prior to placement in paid employment.
- For inmates with non-advanceable dates, the inmate must be within:
 - 28 months of his earliest release date for the transition program, or
 - 19 months of his earliest release date for CWA, or
 - 14 months of his earliest release date for CWR.
- For inmates who do not have non-advanceable dates, the inmate must be within:
 - 36 months of his earliest release date for the transition program, or
 - 28 months of his earliest release date for CWA, or
 - 19 months of his earliest release date for CWR.⁷

Ineligibility for Community Release

An inmate is ineligible for a community release program if he or she has:

- A current or prior conviction for a sex offense;
- Been found guilty on any disciplinary report for escape or attempted escape within the last five years;
- A current or prior conviction for escape;
- Been terminated from CWR, CWA, or a transition program for disciplinary reasons during the inmates current commitment;
- Been committed to or incarcerated in a state or federal correctional facility four or more times;
- Been found guilty of any disciplinary report in the 60 days prior to placement;
- Refused to complete or has an unsatisfactory removal from a substance abuse program
- A felony, Immigration and Customs Enforcement, or misdemeanor (for other than child support) warrant or detainer; or

A misdemeanor detainer for child support.⁸

⁶ 37 months based on the method inmates are selected for the transition centers which is most similar to the program described in the bill.

⁷ Rule 33-601.602(2)(b), F.A.C.

⁸ Rule 33-601.602(2)(a), F.A.C.

III. Effect of Proposed Changes:

The bill directs the department to develop an operational plan to implement a vocational work-release pilot program for the 2015 -2016 fiscal year in Santa Rosa, Escambia, Walton, and Okaloosa Counties.

The bill requires that the program be designed to provide residential care, custody, control, and on-the-job vocational training or certification to eligible inmates. Vocational training or certification include housing assistance, money management training, employment assistance, vocational education, life skills training, and substance abuse education or treatment.

The bill requires the department to consider all inmates who are within 36 months of their release date for participation in the program. Selection must be based on a risk assessment process that includes, but is not limited to, whether:

- The inmate has potential for rehabilitation and has the need for on-the- job vocational training.
- The inmate can be placed in the geographic area where he or she is from, or has family or identified friends, and intends to reside in the area upon release from custody.

The operational plan for the program must describe and document:

- Resources needed for the program including but not limited to:
 - Specific buildings
 - Grounds
 - Property that must be obtained for or redesignated as vocational work release;
- Placement of facilities and services in specific areas to maximize the opportunity for inmates to be located near where they plan to live;
- Additional staff or changes to staff qualifications;
- Types of contracts the program intends to use for private providers;
- Security Staffing plan;
- Programming plan;
- Proposed budget;
- Process and method for selecting inmate participation and screening; and
- Changes in the law which are necessary to implement the program.

The bill requires the Department to submit a status report on the program by February 15, 2015, to the Governor, the President of the Senate and the Speaker of the House. The report must document the projected number of inmates to be served by the pilot program in the 2015-2016 fiscal year and the funding needed to implement the operational plan.

The bill has an effective date of July 1, 2014.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill provides for the department to develop a plan that could ultimately have a fiscal impact, but does not authorize implementation of the plan.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates an unnumbered section of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

FOR CONSIDERATION By the Committee on Criminal Justice

591-01125C-14

20147030__

A bill to be entitled

An act relating to community reentry programs; requiring the Department of Corrections to develop an operational plan to implement a vocational work-release pilot program in specified counties; requiring that the operational plan describe the necessary facilities, staff, budget, and methods for selecting inmates to participate in the pilot program; providing examples of vocational training or certification; requiring inmates to be within a specified time period of their release dates to be considered for participation in the pilot program; providing criteria to assess the risk of placing an inmate in the pilot program; requiring that the department submit a report to the Governor and the Legislature by a specified date; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Vocational work-release pilot program.

(1) The Department of Corrections shall develop an operational plan to implement a vocational work-release pilot program for the 2015-2016 fiscal year in Santa Rosa, Escambia, Walton, and Okaloosa Counties. At a minimum, the operational plan for the pilot program must describe and document:

(a) The resources needed for the program, including, but not limited to, specific buildings, grounds, and property that must be obtained for or redesignated as vocational work-release facilities.

Page 1 of 3

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591-01125C-14

20147030__

(b) The placement of facilities and services in specific areas to maximize the opportunity for participating inmates to benefit from being located near where they plan to live after completion of their sentences.

(c) The additional staff or changes to staff qualifications necessary to operate the program.

(d) The types of contracts the program intends to use for private providers that desire to provide on-the-job vocational training to eligible inmates.

(e) The security staffing plan.

(f) The programming plan.

(g) The proposed budget.

(h) The process and method for selecting an inmate to participate in the program, including any initial screening process, the criteria used in the risk assessment, and any prioritization of placement.

(i) The changes in law which are necessary to implement the program.

(2) The pilot program shall be designed to provide residential care, custody, control, and on-the-job vocational training or certification to eligible inmates. For purposes of the program, vocational training or certification include, but are not limited to, housing assistance, money management training, employment assistance, vocational education, life skills training, and substance abuse education or treatment.

(3) All inmates who are considered for participation in the program must be within 36 months of their release dates. The selection must be based upon a risk assessment process that includes, but is not limited to, whether:

Page 2 of 3

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591-01125C-14

20147030__

59 (a) The inmate has potential for rehabilitation and has the
60 need for on-the-job vocational training.

61 (b) The inmate can be placed in the geographic area where
62 he or she is from, or has family or identified friends, and
63 intends to reside in the area upon release from custody.

64 (4) The pilot program may include an existing community
65 work-release program established pursuant to s. 945.091, Florida
66 Statutes, as a service provider, but the existing program must
67 provide enhanced reentry services to participating inmates,
68 including, but not limited to, housing assistance, money
69 management training, employment assistance, vocational
70 education, life skills training, and substance abuse education
71 or treatment.

72 Section 2. The Department of Corrections shall submit a
73 status report related to the vocational work-release pilot
74 program authorized by this act by February 15, 2015, to the
75 Executive Office of the Governor, the President of the Senate,
76 and the Speaker of the House of Representatives. The report must
77 document the projected number of inmates to be served by the
78 pilot program in the 2015-2016 fiscal year and the funding
79 needed to implement the operational plan.

80 Section 3. This act shall take effect July 1, 2014.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3 / 3 / 2014

Meeting Date

Topic _____ Bill Number 7030
Name BRIAN PITTS (if applicable)
Job Title TRUSTEE Amendment Barcode _____ (if applicable)
Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street
City SAINT PETERSBURG State FLORIDA Zip 33705
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Speaking: ☐ For ☐ Against ☒ Information
Representing JUSTICE-2-JESUS
Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SPB 7030

INTRODUCER: For consideration by the Criminal Justice Committee

SUBJECT: Community Reentry Programs

DATE: February 6, 2014

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Sumner 	Cannon 		Pre-meeting

I. Summary:

SPB 7030 requires the Department of Corrections (Department) to develop an operational plan to implement a vocational work-release pilot program in Santa Rosa, Escambia, Walton, and Okaloosa counties. The bill requires that inmates who are within 36 months of their release date be considered for participation in the program based upon a risk assessment.

II. Present Situation:

Community Work Release

The statutory authority for the Department of Corrections to offer a work release program is found in s. 945.091, F.S., entitled "Extension of the limits of confinement; restitution by employed inmates." Section 945.091(1)(b), F.S., specifically provides for the Department to adopt rules permitting the extension of the limits of confinement with the approval of the secretary or secretary's designee to leave the confines of the facility unaccompanied by a custodial agent for a proscribed period of time to:

- work at paid employment;
- participate in an education or training program; or
- voluntarily serve a public or nonprofit agency or faith –based service group in the community.

An inmate may participate in paid employment only during the last 36 months of confinement unless requested sooner by the Parole Commission or the Control Release Authority.¹ Inmates may also apply for placement at a contracted substance abuse transition housing program while working at paid employment and residing at a facility. An inmate may also request placement in a faith-based substance abuse transition housing program after the transition specialist consults with the chaplain prior to such placement.²

¹ s. 945.091(1)(b)1., F.S.

² s. 945.091(1)(b)2., F.S.

Community Release Programs

There are several categories of community release programs:

- Center Work Assignment (CWA) – inmate is assigned to a work release center to serve in a support capacity
- Community Release Program – program allowing inmates to work at paid employment or a center work assignment or to participate in education, training, substance abuse treatment programs, or any other transitional program to facilitate re-entry into the community while in a work release center, contract community work release facility, or other contract community facility
- Community Work Release (CWR) – community release program that allows inmates to work at paid employment in the community while continuing as inmates of the facility where they are confined
- Community Study Release – allows inmates to attend an education or vocational facility or participate in a training program in the community while continuing as inmates of the facility where they are confined
- Community Volunteer Service – allows inmates housed at a work release center or contract facility to voluntarily work with a governmental or nonprofit agency in the community³

Within the four northwest Florida counties affected by the bill, the Department reports that 1,450 inmates were admitted and 1,380 were released during Fiscal Year 2012-2013. The Department reports that this group of inmates could reasonably be assumed to have ties to the geographical area. Though, the Department states that an independent review of each case would be required to determine eligibility for the program in order to eliminate duplication between admissions and releases.

FY 12-13 Admissions & Releases for Counties included in Proposed Vocational Work Release Program		
County	Admissions⁴	Releases⁵
Santa Rosa	217	219
Escambia	785	793
Walton	95	79
Okaloosa	353	289
Total	1,450	1,380

Based upon the January 31, 2014 status file, the following information from the department's Bureau of Research and Data Analysis reflects:

³ Rule 33-601.602, F.A.C.

⁴ Florida Department of Corrections 2012-2013 Agency Statistics-
http://www.dc.state.fl.us/pub/annual/1213/stats/ia_county_commitment.html (last viewed 2/7/14).

⁵ Florida Department of Corrections 2012-2013 Agency Statistics-
http://www.dc.state.fl.us/pub/annual/1213/stats/ir_county.html (last viewed 2/7/14).

- 255 inmates (221 male; 34 female) meet the basic criteria required for the proposed program – minimum custody, no murder charges/sex offenses, returning to or convicted out of the four county implementation area, and have between 37 months⁶ and 14 months left to serve on their sentence.
- The number of eligible inmates may be further reduced when considering other required needs.

Eligibility Requirements to Participate in Community Release Programs

To meet the eligibility requirements to participate in a community release program an inmate must:

- Be in community custody in accordance with Rule 33-601.210, F.A.C., or have a recommendation for community custody currently under review.
- Be in Department custody for 60 days prior to placement in paid employment.
- For inmates with non-advanceable dates, the inmate must be within:
 - 28 months of his earliest release date for the transition program, or
 - 19 months of his earliest release date for CWA, or
 - 14 months of his earliest release date for CWR.
- For inmates who do not have non-advanceable dates, the inmate must be within:
 - 36 months of his earliest release date for the transition program, or
 - 28 months of his earliest release date for CWA, or
 - 19 months of his earliest release date for CWR.⁷

Ineligibility for Community Release

An inmate is ineligible for a community release program if he or she has:

- A current or prior conviction for a sex offense;
- Been found guilty on any disciplinary report for escape or attempted escape within the last five years;
- A current or prior conviction for escape;
- Been terminated from CWR, CWA, or a transition program for disciplinary reasons during the inmates current commitment;
- Been committed to or incarcerated in a state or federal correctional facility four or more times;
- Been found guilty of any disciplinary report in the 60 days prior to placement;
- Refused to complete or has an unsatisfactory removal from a substance abuse program
- A felony, Immigration and Customs Enforcement, or misdemeanor (for other than child support) warrant or detainer; or

A misdemeanor detainer for child support.⁸

⁶ 37 months based on the method inmates are selected for the transition centers which is most similar to the program described in the bill.

⁷ Id.

⁸ Id.

III. Effect of Proposed Changes:

The bill directs the department to develop an operational plan to implement a vocational work-release pilot program for the 2015 -2016 fiscal year in Santa Rosa, Escambia, Walton, and Okaloosa Counties.

The bill requires that the program be designed to provide residential care, custody, control, and on-the-job vocational training or certification to eligible inmates. Vocational training or certification include housing assistance, money management training, employment assistance, vocational education, life skills training, and substance abuse education or treatment.

The bill requires the department to consider all inmates who are within 36 months of their release date for participation in the program. Selection must be based on a risk assessment process that includes, but is not limited to, whether:

- The inmate has potential for rehabilitation and has the need for on-the- job vocational training.
- The inmate can be placed in the geographic area where he or she is from, or has family or identified friends, and intends to reside in the area upon release from custody.

The operational plan for the program must describe and document:

- Resources needed for the program including but not limited to:
 - Specific buildings
 - Grounds
 - Property that must be obtained for or redesignated as vocational work release;
- Placement of facilities and services in specific areas to maximize the opportunity for inmates to be located near where they plan to live;
- Additional staff or changes to staff qualifications;
- Types of contracts the program intends to use for private providers;
- Security Staffing plan;
- Programming plan;
- Proposed budget;
- Process and method for selecting inmate participation and screening; and
- Changes in the law which are necessary to implement the program.

The bill requires the Department to submit a status report on the program by February 15, 2015, to the Governor, the President of the Senate and the Speaker of the House. The report must document the projected number of inmates to be served by the pilot program in the 2015-2016 fiscal year and the funding needed to implement the operational plan.

The bill has an effective date of July 1, 2014.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill provides for the department to develop a plan that could ultimately have a fiscal impact, but does not authorize implementation of the plan.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates an unnumbered section of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SPB 7048

INTRODUCER: For consideration by the Criminal Justice Committee

SUBJECT: Renaming the Parole Commission

DATE: February 25, 2014

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Sumner	Cannon		Submitted as Committee Bill

I. Summary:

SPB 7048 changes the name of the Parole Commission to the Florida Commission on Offender Review to more accurately reflect the roles of the commission.

II. Present Situation:

The Parole Commission (Commission) is a constitutionally authorized decision-making body. Article IV, section 8 of the Florida Constitution, provides that there may be created by law a parole and probation commission with the power to supervise persons on probation and grant paroles of conditional releases to persons under sentences for crime (s. 20.32, F.S.). In 1941, the Commission was created by law to administer parole. Since that time, the administration of conditional release, conditional medical release, control release, and addiction recovery has been placed under the Commission. The Commission also acts as the investigative arm of the Governor and Cabinet, sitting as the Board of Executive Clemency (Clemency Board), in clemency matters.

Parole

Parole is the release of an inmate, prior to the expiration of the inmate's court-imposed sentence, with a period of supervision to be successfully completed by compliance with the conditions and terms of the release agreement ordered by the Commission. The decision of the Commission to parole an inmate shall represent an act of grace of the State and should not be considered a right. The Parole Commission administers parole (see chs. 947, 948, and 949, F.S.). It allows an inmate who has been granted parole to serve the remainder of his or her prison sentence outside the confines of the institution. Once released, the parolee is subject to conditions of supervision, and if those conditions are violated, the Commission may return the parolee to prison. Parole has experienced a number of changes over the years. In 1978, the Florida Legislature enacted "Objective Parole Guidelines," which required the Commission to develop and implement rules and criteria upon which parole decisions were to be made. These criteria were based on risk assessment and combined historical Commission decision-making experience with individual

case elements. The most significant change, however, came in 1983. In that year, sentencing guidelines were enacted, thereby effectively abolishing parole for those offenders who were sentenced for crimes committed on or after October 1, 1983.

Currently, all inmates who committed a capital felony murder prior to May 25, 1994, and all inmates who committed all other capital felonies, including sexual battery prior to October 1, 1995, are also parole eligible. There are approximately 5,107 inmates who are still eligible for parole consideration and numerous offenders who are still under parole supervision.

Post Prison Release

Conditional Release

In 1988, the Florida Legislature created the Conditional Release Program and placed it under the administration of the Commission (see chs. 947, 948, and 960, F.S.). Conditional Release requires mandatory post-prison supervision for inmates who are sentenced for certain violent crimes and who have served a prior felony commitment, or who are sentenced as a habitual offender, violent habitual offender, violent career criminal, or sexual predator. Unlike parole, conditional release is not discretionary release. Upon release from prison, inmates who are subject to conditional release are supervised for a period of time equal to the gain-time that they received in prison. These offenders are subject to strict conditions of supervision set by the Commission and this supervision can be revoked and the releasee returned to prison if the Commission determines that a violation of supervision has occurred.

Control Release

In 1989, the Florida Legislature created the Control Release Authority (see chs. 947 and 948, F.S.). This program was a prison population management system administered by the Commission to keep the prison population at its lawful capacity. The Commission does not currently review the inmate population for discretionary release under this authority as there are sufficient prison beds for the current prison population. There are, however, a small number of control releasees who are still under supervision. The Commission is responsible for monitoring the progress of these releasees and conducting revocation hearings when alleged violations are reported.

Conditional Medical Release

In 1992, the Florida Legislature created Conditional Medical Release (see chs. 947, 948, and 960, F.S.). This is a discretionary release that allows the Commission to release inmates on supervision who are “terminally ill” or “permanently incapacitated” and who are not a danger to others.

Addiction Recovery Supervision Program

In 2001, the Legislature created the Addiction Recovery Supervision Program and placed it under the Commission’s administration. This program requires mandatory post prison supervision for offenders who are released from a state correctional facility, were convicted of a crime committed on or after July 1, 2001, have a history of substance abuse or addiction or have participated in any drug treatment, and have not been convicted of a disqualifying offense. The

law requires the Commission to set the terms and conditions of supervision and to revoke that supervision if the offender fails to comply with them. The first offender eligible for the program was released from prison in June 2002. In FY 2008-09, 2,057 offenders were placed in the program.

Clemency

Clemency is a constitutionally authorized process that provides the means through which convicted felons may seek restoration of their civil rights and may be considered for relief from punishment. The Office of Executive Clemency was created in 1975 to process applications for executive clemency requiring approval of the Governor and Cabinet who sit collectively as the Executive Clemency Board.

In addition to processing requests for restoration of civil rights, applications for alien status, full pardons, remission of fines, waiver requests, commutations of sentence and specific authority to own, possess or use firearms, the office also provides verification and/or certification of restoration of civil rights and other forms of clemency granted, to law enforcement agencies, state attorneys, public defenders, licensing agencies, and supervisors of elections.

The Parole Commission primarily processes clemency applications and reviews certain inmates under their purview. There is confusion over the role of the Parole Commission because its name does not depict the duties actually prescribed by law.

Victim Services

The Victim Services' section provides direct, personal service to crime victims and their families. Staff attempt to locate all victims of parole eligible inmates and persons seeking clemency to inform them of their right to be heard and participate in the clemency or parole process. Victims are also informed of their right to be notified by the Department of Corrections of an inmate's movement within the prison system or escape.

Revocations

The Revocations Section reviews all violation reports, prepares arrest warrants, updates the National Crime Information Center/Florida Crime Information Center databases (NCIC/FCIC), responds to requests from law enforcement agencies, coordinates the extradition of violators, and performs functions relating to the docketing and processing of cases for Commission action involving review of supervision and violations of supervision.

The violation process begins when law enforcement or the Department of Corrections notifies the Commission that a releasee has violated one or more conditions of his/her supervision. The Revocations Section is responsible for reviewing these reported violations and preparing a warrant for a Commissioner's signature. The Commission may issue a warrant for the arrest of any offender when reasonable grounds exist to believe the releasee has violated any of the conditions of supervision.

2012-2013 Workload by Hours**III. Effect of Proposed Changes:**

The bill changes the name of the Parole Commission to the Florida Commission on Offender Review to more accurately reflect the roles of the Commission. The bill provides a directive to the Division of Law Revision and Information to rename ch. 947, F.S., as “Florida Commission on Offender Review.” The bill makes conforming and technical changes.

The bill provides an effective date of July 1, 2014.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None, except administrative costs to change the name.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.315, 20.32, 23.21, 98.093, 186.005, 255.502, 322.16, 394.926, 394.927, 633.304, 775.089, 775.16, 784.07, 784.078, 800.09, 843.01, 843.02, 843.08, 893.11, 921.16, 921.20, 921.21, 921.22, 940.03, 940.05, 940.061, 941.23, 943.0311, 943.06, 944.012, 944.02, 944.171, 944.4731, 945.091, 945.10, 945.47, 945.73, 947.005, 947.01, 947.02, 947.021, 947.045, 947.141, 947.146, 947.181, 947.185, 947.22, 948.09, 948.10, 949.05, 951.29, 957.06, 958.045, 960.001, 960.17, 985.04, and 985.045.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

FOR CONSIDERATION By the Committee on Criminal Justice

591-01887-14

20147048__

A bill to be entitled

An act relating to renaming the Parole Commission; providing legislative findings; renaming the Parole Commission as the Florida Commission on Offender Review; providing a directive to the Division of Law Revision and Information; amending ss. 20.315, 20.32, 23.21, 98.093, 186.005, 255.502, 322.16, 394.926, 394.927, 633.304, 775.089, 775.16, 784.07, 784.078, 800.09, 843.01, 843.02, 843.08, 893.11, 921.16, 921.20, 921.21, 921.22, 940.03, 940.05, 940.061, 941.23, 943.0311, 943.06, 944.012, 944.02, 944.171, 944.4731, 945.091, 945.10, 945.47, 945.73, 947.005, 947.01, 947.02, 947.021, 947.045, 947.141, 947.146, 947.181, 947.185, 947.22, 948.09, 948.10, 949.05, 951.29, 957.06, 958.045, 960.001, 960.17, 985.04, and 985.045, F.S.; conforming provisions to changes made by the act; making technical changes; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. The Legislature finds and recognizes the importance of the state's role in the transition of inmates from prison to the community in reducing recidivism rates. Therefore, the Parole Commission, authorized by s. 8(c), Article IV of the State Constitution, is renamed as the Florida Commission on Offender Review. The commission retains its powers, duties, and functions currently in place.

Section 2. The Division of Law Revision and Information is

Page 1 of 59

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591-01887-14

20147048__

directed to rename chapter 947, Florida Statutes, as "Florida Commission on Offender Review."

Section 3. Subsections (9) and (10) of section 20.315, Florida Statutes, are amended to read:

20.315 Department of Corrections.—There is created a Department of Corrections.

(9) FORM OF COMMITMENT; NOTICE OF PAROLE VIOLATION.—All commitments shall state the statutory authority therefor. The Secretary of Corrections shall have the authority to prescribe the form to be used for commitments. ~~Nothing in~~ This act does not shall be construed to abridge the authority and responsibility of the Florida Parole Commission on Offender Review with respect to the granting and revocation of parole. The Department of Corrections shall notify the Florida Parole Commission on Offender Review of all violations of parole conditions and provide reports connected thereto as may be requested by the commission. The commission shall have the authority to issue orders dealing with supervision of specific parolees, and such orders shall be binding on all parties.

(10) SINGLE INFORMATION AND RECORDS SYSTEM.—Only one offender-based information and records computer system shall be maintained by the Department of Corrections for the joint use of the department and the Florida Parole Commission on Offender Review. The data system shall be managed through the department's office of information technology. The department shall develop and maintain, in consultation with the Criminal and Juvenile Justice Information Systems Council under s. 943.08, such offender-based information, including clemency administration information and other computer services to serve

Page 2 of 59

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591-01887-14

20147048__

the needs of both the department and the Florida Parole Commission on Offender Review. The department shall notify the commission of all violations of parole and the circumstances thereof.

Section 4. Section 20.32, Florida Statutes, is amended to read:

20.32 Florida Parole Commission on Offender Review.—

(1) The Parole and Probation Commission, authorized by s. 8(c), Art. IV, State Constitution of 1968, is continued and renamed the Florida Parole Commission on Offender Review. The commission retains its powers, duties, and functions with respect to the granting and revoking of parole and shall exercise powers, duties, and functions relating to investigations of applications for clemency as directed by the Governor and the Cabinet.

(2) All powers, duties, and functions relating to the appointment of the Florida Parole Commission on Offender Review as provided in s. 947.02 or s. 947.021 shall be exercised and performed by the Governor and the Cabinet. Except as provided in s. 947.021, each appointment shall be made from among the first three eligible persons on the list of the persons eligible for said position.

(3) The commission may require any employee of the commission to give a bond for the faithful performance of his or her duties. The commission may determine the amount of the bond and must approve the bond. In determining the amount of the bond, the commission may consider the amount of money or property likely to be in custody of the officer or employee at any one time. The premiums for the bonds must be paid out of the

591-01887-14

20147048__

funds of the commission.

Section 5. Subsection (1) of section 23.21, Florida Statutes, is amended to read:

23.21 Definitions.—For purposes of this part:

(1) "Department" means a principal administrative unit within the executive branch of state government, as defined in chapter 20, and includes the State Board of Administration, the Executive Office of the Governor, the Fish and Wildlife Conservation Commission, the Florida Parole Commission on Offender Review, the Agency for Health Care Administration, the State Board of Education, the Board of Governors of the State University System, the Justice Administrative Commission, the capital collateral regional counsel, and separate budget entities placed for administrative purposes within a department.

Section 6. Paragraph (e) of subsection (2) of section 98.093, Florida Statutes, is amended to read:

98.093 Duty of officials to furnish information relating to deceased persons, persons adjudicated mentally incapacitated, and persons convicted of a felony.—

(2) To the maximum extent feasible, state and local government agencies shall facilitate provision of information and access to data to the department, including, but not limited to, databases that contain reliable criminal records and records of deceased persons. State and local government agencies that provide such data shall do so without charge if the direct cost incurred by those agencies is not significant.

(e) The Florida ~~Parole~~ Commission on Offender Review shall furnish at least bimonthly to the department data, including the identity of those persons granted clemency in the preceding

591-01887-14 20147048__

month or any updates to prior records which have occurred in the preceding month. The data shall contain the commission's case number and the person's name, address, date of birth, race, gender, Florida driver ~~driver's~~ license number, Florida identification card number, or the last four digits of the social security number, if available, and references to record identifiers assigned by the Department of Corrections and the Department of Law Enforcement, a unique identifier of each clemency case, and the effective date of clemency of each person.

Section 7. Subsection (1) of section 186.005, Florida Statutes, is amended to read:

186.005 Designation of departmental planning officer.—

(1) The head of each executive department and the Public Service Commission, the Fish and Wildlife Conservation Commission, the Florida Parole Commission on Offender Review, and the Department of Military Affairs shall select from within such agency a person to be designated as the planning officer for such agency. The planning officer shall be responsible for coordinating with the Executive Office of the Governor and with the planning officers of other agencies all activities and responsibilities of such agency relating to planning.

Section 8. Subsection (3) of section 255.502, Florida Statutes, is amended to read:

255.502 Definitions; ss. 255.501-255.525.—As used in this act, the following words and terms shall have the following meanings unless the context otherwise requires:

(3) "Agency" means any department created by chapter 20, the Executive Office of the Governor, the Fish and Wildlife

591-01887-14 20147048__

Conservation Commission, the Florida Parole Commission on Offender Review, the State Board of Administration, the Department of Military Affairs, or the Legislative Branch or the Judicial Branch of state government.

Section 9. Paragraph (c) of subsection (1) of section 322.16, Florida Statutes, is amended to read:

322.16 License restrictions.—

(1)

(c) The department may further, at any time, impose other restrictions on the use of the license with respect to time and purpose of use or may impose any other condition or restriction upon recommendation of any court, of the Florida Parole Commission on Offender Review, or of the Department of Corrections with respect to any individual who is under the jurisdiction, supervision, or control of the entity that made the recommendation.

Section 10. Section 394.926, Florida Statutes, is amended to read:

394.926 Notice to victims of release of persons committed as sexually violent predators; notice to Department of Corrections and Florida Parole Commission on Offender Review.—

(1) As soon as is practicable, the department shall give written notice of the release of a person committed as a sexually violent predator to any victim of the committed person who is alive and whose address is known to the department or, if the victim is deceased, to the victim's family, if the family's address is known to the department. Failure to notify is not a reason for postponement of release. This section does not create a cause of action against the state or an employee of the state

591-01887-14

20147048__

175 acting within the scope of the employee's employment as a result
 176 of the failure to notify pursuant to this part.

177 (2) If a sexually violent predator who has an active or
 178 pending term of probation, community control, parole,
 179 conditional release, or other court-ordered or postprison
 180 release supervision is released from custody, the department
 181 must immediately notify the Department of Corrections' Office of
 182 Community Corrections in Tallahassee. The Florida Parole
 183 Commission on Offender Review must also be immediately notified
 184 of any releases of a sexually violent predator who has an active
 185 or pending term of parole, conditional release, or other
 186 postprison release supervision that is administered by the
 187 Florida Parole Commission on Offender Review.

188 Section 11. Section 394.927, Florida Statutes, is amended
 189 to read:

190 394.927 Escape while in lawful custody; notice to victim;
 191 notice to the Department of Corrections and Florida Parole
 192 Commission on Offender Review.—

193 (1) A person who is held in lawful custody pursuant to a
 194 judicial finding of probable cause under s. 394.915 or pursuant
 195 to a commitment as a sexually violent predator under s. 394.916
 196 and who escapes or attempts to escape while in such custody
 197 commits a felony of the second degree, punishable as provided in
 198 s. 775.082, s. 775.083, or s. 775.084.

199 (2) If a person who is held in custody pursuant to a
 200 finding of probable cause or commitment as a sexually violent
 201 predator escapes while in custody, the department shall
 202 immediately notify the victim in accordance with s. 394.926. The
 203 state attorney that filed the petition for civil commitment of

591-01887-14

20147048__

204 the escapee must also be immediately notified by the department.
 205 If the escapee has an active or pending term of probation,
 206 community control, parole, conditional release, or other court-
 207 ordered or postprison release supervision, the department shall
 208 also immediately notify the Department of Corrections' Office of
 209 Community Corrections in Tallahassee. The Florida Parole
 210 Commission on Offender Review shall also be immediately notified
 211 of an escape if the escapee has an active or pending term of
 212 parole, conditional release, or other postprison release
 213 supervision that is administered by the Florida Parole
 214 Commission on Offender Review.

215 Section 12. Paragraph (d) of subsection (4) of section
 216 633.304, Florida Statutes, is amended to read:

217 633.304 Fire suppression equipment; license to install or
 218 maintain.—

219 (4)

220 (d) A license of any class may not be issued or renewed by
 221 the division and a license of any class does not remain
 222 operative unless:

223 1. The applicant has submitted to the State Fire Marshal
 224 evidence of registration as a Florida corporation or evidence of
 225 compliance with s. 865.09.

226 2. The State Fire Marshal or his or her designee has by
 227 inspection determined that the applicant possesses the equipment
 228 required for the class of license sought. The State Fire Marshal
 229 shall give an applicant a reasonable opportunity to correct any
 230 deficiencies discovered by inspection. To obtain such
 231 inspection, an applicant with facilities located outside this
 232 state must:

591-01887-14

20147048__

a. Provide a notarized statement from a professional engineer licensed by the applicant's state of domicile certifying that the applicant possesses the equipment required for the class of license sought and that all such equipment is operable; or

b. Allow the State Fire Marshal or her or his designee to inspect the facility. All costs associated with the State Fire Marshal's inspection shall be paid by the applicant. The State Fire Marshal, in accordance with s. 120.54, may adopt rules to establish standards for the calculation and establishment of the amount of costs associated with any inspection conducted by the State Fire Marshal under this section. Such rules shall include procedures for invoicing and receiving funds in advance of the inspection.

3. The applicant has submitted to the State Fire Marshal proof of insurance providing coverage for comprehensive general liability for bodily injury and property damage, products liability, completed operations, and contractual liability. The State Fire Marshal shall adopt rules providing for the amounts of such coverage, but such amounts may ~~shall~~ not be less than \$300,000 for Class A or Class D licenses, \$200,000 for Class B licenses, and \$100,000 for Class C licenses; and the total coverage for any class of license held in conjunction with a Class D license may not be less than \$300,000. The State Fire Marshal may, at any time after the issuance of a license or its renewal, require upon demand, and in no event more than 30 days after notice of such demand, the licensee to provide proof of insurance, on a form provided by the State Fire Marshal, containing confirmation of insurance coverage as required by

591-01887-14

20147048__

this chapter. Failure, for any length of time, to provide proof of insurance coverage as required shall result in the immediate suspension of the license until proof of proper insurance is provided to the State Fire Marshal. An insurer which provides such coverage shall notify the State Fire Marshal of any change in coverage or of any termination, cancellation, or nonrenewal of any coverage.

4. The applicant applies to the State Fire Marshal, provides proof of experience, and successfully completes a prescribed training course offered by the State Fire College or an equivalent course approved by the State Fire Marshal. This subparagraph does not apply to any holder of or applicant for a permit under paragraph (g) or to a business organization or a governmental entity seeking initial licensure or renewal of an existing license solely for the purpose of inspecting, servicing, repairing, marking, recharging, and maintaining fire extinguishers used and located on the premises of and owned by such organization or entity.

5. The applicant has a current retestor identification number that is appropriate for the license for which the applicant is applying and that is listed with the United States Department of Transportation.

6. The applicant has passed, with a grade of at least 70 percent, a written examination testing his or her knowledge of the rules and statutes governing the activities authorized by the license and demonstrating his or her knowledge and ability to perform those tasks in a competent, lawful, and safe manner. Such examination shall be developed and administered by the State Fire Marshal, or his or her designee in accordance with

591-01887-14 20147048__

291 policies and procedures of the State Fire Marshal. An applicant
 292 shall pay a nonrefundable examination fee of \$50 for each
 293 examination or reexamination scheduled. A reexamination may not
 294 be scheduled sooner than 30 days after any administration of an
 295 examination to an applicant. An applicant may not be permitted
 296 to take an examination for any level of license more than a
 297 total of four times during 1 year, regardless of the number of
 298 applications submitted. As a prerequisite to licensure of the
 299 applicant, he or she:

300 a. Must be at least 18 years of age.

301 b. Must have 4 years of proven experience as a fire
 302 equipment permittee at a level equal to or greater than the
 303 level of license applied for or have a combination of education
 304 and experience determined to be equivalent thereto by the State
 305 Fire Marshal. Having held a permit at the appropriate level for
 306 the required period constitutes the required experience.

307 c. Must not have been convicted of a felony or a crime
 308 punishable by imprisonment of 1 year or more under the law of
 309 the United States or of any state thereof or under the law of
 310 any other country. "Convicted" means a finding of guilt or the
 311 acceptance of a plea of guilty or nolo contendere in any federal
 312 or state court or a court in any other country, without regard
 313 to whether a judgment of conviction has been entered by the
 314 court having jurisdiction of the case. If an applicant has been
 315 convicted of any such felony, the applicant shall be excluded
 316 from licensure for a period of 4 years after expiration of
 317 sentence or final release by the Florida Parole Commission on
 318 Offender Review unless the applicant, before the expiration of
 319 the 4-year period, has received a full pardon or has had her or

591-01887-14 20147048__

320 his civil rights restored.

321

322 This subparagraph does not apply to any holder of or applicant
 323 for a permit under paragraph (g) or to a business organization
 324 or a governmental entity seeking initial licensure or renewal of
 325 an existing license solely for the purpose of inspecting,
 326 servicing, repairing, marking, recharging, hydrottesting, and
 327 maintaining fire extinguishers used and located on the premises
 328 of and owned by such organization or entity.

329 Section 13. Subsection (4) of section 775.089, Florida
 330 Statutes, is amended to read:

331 775.089 Restitution.—

332 (4) If a defendant is placed on probation or paroled,
 333 complete satisfaction of any restitution ordered under this
 334 section shall be a condition of such probation or parole. The
 335 court may revoke probation, and the Florida Parole Commission on
 336 Offender Review may revoke parole, if the defendant fails to
 337 comply with such order.

338 Section 14. Section 775.16, Florida Statutes, is amended to
 339 read:

340 775.16 Drug offenses; additional penalties.—In addition to
 341 any other penalty provided by law, a person who has been
 342 convicted of sale of or trafficking in, or conspiracy to sell or
 343 traffic in, a controlled substance under chapter 893, if such
 344 offense is a felony, or who has been convicted of an offense
 345 under the laws of any state or country which, if committed in
 346 this state, would constitute the felony of selling or
 347 trafficking in, or conspiracy to sell or traffic in, a
 348 controlled substance under chapter 893, is:

591-01887-14

20147048__

349 (1) Disqualified from applying for employment by any agency
350 of the state, unless:

351 (a) The person has completed all sentences of imprisonment
352 or supervisory sanctions imposed by the court, by the Florida
353 ~~Parole~~ Commission on Offender Review, or by law; or

354 (b) The person has complied with the conditions of
355 subparagraphs 1. and 2. which shall be monitored by the
356 Department of Corrections while the person is under any
357 supervisory sanctions. The person under supervision may:

358 1. Seek evaluation and enrollment in, and once enrolled
359 maintain enrollment in until completion, a drug treatment and
360 rehabilitation program which is approved by the Department of
361 Children and Families ~~Family Services~~, unless it is deemed by
362 the program that the person does not have a substance abuse
363 problem. The treatment and rehabilitation program may be
364 specified by:

365 a. The court, in the case of court-ordered supervisory
366 sanctions;

367 b. The Florida ~~Parole~~ Commission on Offender Review, in the
368 case of parole, control release, or conditional release; or

369 c. The Department of Corrections, in the case of
370 imprisonment or any other supervision required by law.

371 2. Submit to periodic urine drug testing pursuant to
372 procedures prescribed by the Department of Corrections. If the
373 person is indigent, the costs shall be paid by the Department of
374 Corrections.

375 (2) Disqualified from applying for a license, permit, or
376 certificate required by any agency of the state to practice,
377 pursue, or engage in any occupation, trade, vocation,

591-01887-14

20147048__

378 profession, or business, unless:

379 (a) The person has completed all sentences of imprisonment
380 or supervisory sanctions imposed by the court, by the Florida
381 ~~Parole~~ Commission on Offender Review, or by law;

382 (b) The person has complied with the conditions of
383 subparagraphs 1. and 2. which shall be monitored by the
384 Department of Corrections while the person is under any
385 supervisory sanction. If the person fails to comply with
386 provisions of these subparagraphs by either failing to maintain
387 treatment or by testing positive for drug use, the department
388 shall notify the licensing, permitting, or certifying agency,
389 which may refuse to reissue or reinstate such license, permit,
390 or certification. The licensee, permittee, or certificateholder
391 under supervision may:

392 1. Seek evaluation and enrollment in, and once enrolled
393 maintain enrollment in until completion, a drug treatment and
394 rehabilitation program which is approved or regulated by the
395 Department of Children and Families ~~Family Services~~, unless it
396 is deemed by the program that the person does not have a
397 substance abuse problem. The treatment and rehabilitation
398 program may be specified by:

399 a. The court, in the case of court-ordered supervisory
400 sanctions;

401 b. The Florida ~~Parole~~ Commission on Offender Review, in the
402 case of parole, control release, or conditional release; or

403 c. The Department of Corrections, in the case of
404 imprisonment or any other supervision required by law.

405 2. Submit to periodic urine drug testing pursuant to
406 procedures prescribed by the Department of Corrections. If the

591-01887-14 20147048__

person is indigent, the costs shall be paid by the Department of Corrections; or

(c) The person has successfully completed an appropriate program under the Correctional Education Program.

The provisions of this section do not apply to any of the taxes, fees, or permits regulated, controlled, or administered by the Department of Revenue in accordance with the provisions of s. 213.05.

Section 15. Paragraph (d) of subsection (1) of section 784.07, Florida Statutes, is amended to read:

784.07 Assault or battery of law enforcement officers, firefighters, emergency medical care providers, public transit employees or agents, or other specified officers; reclassification of offenses; minimum sentences.—

(1) As used in this section, the term:

(d) "Law enforcement officer" includes a law enforcement officer, a correctional officer, a correctional probation officer, a part-time law enforcement officer, a part-time correctional officer, an auxiliary law enforcement officer, and an auxiliary correctional officer, as those terms are respectively defined in s. 943.10, and any county probation officer; an employee or agent of the Department of Corrections who supervises or provides services to inmates; an officer of the Florida Parole Commission on Offender Review; a federal law enforcement officer as defined in s. 901.1505; and law enforcement personnel of the Fish and Wildlife Conservation Commission or the Department of Law Enforcement.

Section 16. Paragraph (b) of subsection (2) of section

591-01887-14 20147048__

784.078, Florida Statutes, is amended to read:

784.078 Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.—

(2)

(b) "Employee" includes any person who is a parole examiner with the Florida ~~Parole~~ Commission on Offender Review.

Section 17. Paragraph (a) of subsection (1) of section 800.09, Florida Statutes, is amended to read:

800.09 Lewd or lascivious exhibition in the presence of an employee.—

(1) As used in this section, the term:

(a) "Employee" means any person employed by or performing contractual services for a public or private entity operating a facility or any person employed by or performing contractual services for the corporation operating the prison industry enhancement programs or the correctional work programs under part II of chapter 946. The term also includes any person who is a parole examiner with the Florida Parole Commission on Offender Review.

Section 18. Section 843.01, Florida Statutes, is amended to read:

843.01 Resisting officer with violence to his or her person.—Whoever knowingly and willfully resists, obstructs, or opposes any officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); member of the Florida Parole Commission on Offender Review or any administrative aide or supervisor employed by the commission; parole and probation supervisor; county probation officer; personnel or representative of the Department of Law Enforcement; or other person legally

591-01887-14 20147048__

authorized to execute process in the execution of legal process or in the lawful execution of any legal duty, by offering or doing violence to the person of such officer or legally authorized person, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 19. Section 843.02, Florida Statutes, is amended to read:

843.02 Resisting officer without violence to his or her person.—Whoever shall resist, obstruct, or oppose any officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); member of the Florida Parole Commission on Offender Review or any administrative aide or supervisor employed by the commission; county probation officer; parole and probation supervisor; personnel or representative of the Department of Law Enforcement; or other person legally authorized to execute process in the execution of legal process or in the lawful execution of any legal duty, without offering or doing violence to the person of the officer, shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 20. Section 843.08, Florida Statutes, is amended to read:

843.08 Falsely personating officer, etc.—A person who falsely assumes or pretends to be a sheriff, officer of the Florida Highway Patrol, officer of the Fish and Wildlife Conservation Commission, officer of the Department of Transportation, officer of the Department of Financial Services, officer of the Department of Corrections, correctional probation officer, deputy sheriff, state attorney or assistant state

591-01887-14 20147048__

attorney, statewide prosecutor or assistant statewide prosecutor, state attorney investigator, coroner, police officer, lottery special agent or lottery investigator, beverage enforcement agent, or watchman, or any member of the Florida Parole Commission on Offender Review and any administrative aide or supervisor employed by the commission, or any personnel or representative of the Department of Law Enforcement, or a federal law enforcement officer as defined in s. 901.1505, and takes upon himself or herself to act as such, or to require any other person to aid or assist him or her in a matter pertaining to the duty of any such officer, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. However, a person who falsely personates any such officer during the course of the commission of a felony commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the commission of the felony results in the death or personal injury of another human being, the person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 21. Paragraph (a) of subsection (1) of section 893.11, Florida Statutes, is amended to read:

893.11 Suspension, revocation, and reinstatement of business and professional licenses.—For the purposes of s. 120.60(6), any conviction in any court reported to the Comprehensive Case Information System of the Florida Association of Court Clerks and Comptrollers, Inc., for the sale of, or trafficking in, a controlled substance or for conspiracy to sell, or traffic in, a controlled substance constitutes an immediate serious danger to the public health, safety, or

591-01887-14

20147048__

welfare, and is grounds for disciplinary action by the licensing state agency. A state agency shall initiate an immediate emergency suspension of an individual professional license issued by the agency, in compliance with the procedures for summary suspensions in s. 120.60(6), upon the agency's findings of the licensee's conviction in any court reported to the Comprehensive Case Information System of the Florida Association of Court Clerks and Comptrollers, Inc., for the sale of, or trafficking in, a controlled substance, or for conspiracy to sell, or traffic in, a controlled substance. Before renewing any professional license, a state agency that issues a professional license must use the Comprehensive Case Information System of the Florida Association of Court Clerks and Comptrollers, Inc., to obtain information relating to any conviction for the sale of, or trafficking in, a controlled substance or for conspiracy to sell, or traffic in, a controlled substance. The clerk of court shall provide electronic access to each state agency at no cost and also provide certified copies of the judgment upon request to the agency. Upon a showing by any such convicted defendant whose professional license has been suspended or revoked pursuant to this section that his or her civil rights have been restored or upon a showing that the convicted defendant meets the following criteria, the agency head may reinstate or reactivate such license when:

(1) The person has complied with the conditions of paragraphs (a) and (b) which shall be monitored by the Department of Corrections while the person is under any supervisory sanction. If the person fails to comply with provisions of these paragraphs by either failing to maintain

591-01887-14

20147048__

treatment or by testing positive for drug use, the department shall notify the licensing agency, which shall revoke the license. The person under supervision may:

(a) Seek evaluation and enrollment in, and once enrolled maintain enrollment in until completion, a drug treatment and rehabilitation program which is approved or regulated by the Department of Children and Families ~~Family Services~~. The treatment and rehabilitation program shall be specified by:

1. The court, in the case of court-ordered supervisory sanctions;

2. The Florida ~~Parole~~ Commission on Offender Review, in the case of parole, control release, or conditional release; or

3. The Department of Corrections, in the case of imprisonment or any other supervision required by law.

Section 22. Subsection (2) of section 921.16, Florida Statutes, is amended to read:

921.16 When sentences to be concurrent and when consecutive.—

(2) A county court or circuit court of this state may direct that the sentence imposed by such court be served concurrently with a sentence imposed by a court of another state or of the United States or, for purposes of this section, concurrently with a sentence to be imposed in another jurisdiction. In such case, the Department of Corrections may designate the correctional institution of the other jurisdiction as the place for reception and confinement of such person and may also designate the place in Florida for reception and confinement of such person in the event that confinement in the other jurisdiction terminates before the expiration of the

591-01887-14

20147048__

581 Florida sentence. The sheriff shall forward commitment papers
 582 and other documents specified in s. 944.17 to the department.
 583 Upon imposing such a sentence, the court shall notify the
 584 Florida Parole Commission on Offender Review as to the
 585 jurisdiction in which the sentence is to be served. Any prisoner
 586 so released to another jurisdiction shall be eligible for
 587 consideration for parole by the Florida Parole Commission on
 588 Offender Review pursuant to ~~the provisions of~~ chapter 947,
 589 except that the commission shall determine the presumptive
 590 parole release date and the effective parole release date by
 591 requesting such person's file from the receiving jurisdiction.
 592 Upon receiving such records, the commission shall determine
 593 these release dates based on the relevant information in that
 594 file and shall give credit toward reduction of the Florida
 595 sentence for gain-time granted by the jurisdiction where the
 596 inmate is serving the sentence. The Florida Parole Commission on
 597 Offender Review may concur with the parole release decision of
 598 the jurisdiction granting parole and accepting supervision.

599 Section 23. Section 921.20, Florida Statutes, is amended to
 600 read:

601 921.20 Classification summary; Florida Parole Commission on
 602 Offender Review.—As soon as possible after a prisoner has been
 603 placed in the custody of the Department of Corrections, the
 604 classification board shall furnish a classification summary to
 605 the Florida Parole Commission on Offender Review for use as
 606 provided in s. 945.25. The summary shall include the criminal,
 607 personal, social, and environmental background and other
 608 relevant factors considered in classifying the prisoner for a
 609 penal environment best suited for the prisoner's rapid

591-01887-14

20147048__

610 rehabilitation.

611 Section 24. Section 921.21, Florida Statutes, is amended to
 612 read:

613 921.21 Progress reports to Florida Parole Commission on
 614 Offender Review.—From time to time the Department of Corrections
 615 shall submit to the Florida Parole Commission on Offender Review
 616 progress reports and recommendations regarding prisoners
 617 sentenced under s. 921.18. ~~If When~~ the classification board of
 618 the Department of Corrections determines that justice and the
 619 public welfare will best be served by paroling or discharging a
 620 prisoner, it shall transmit its finding to the Florida Parole
 621 Commission on Offender Review. The commission shall have the
 622 authority to place the prisoner on parole as provided by law or
 623 give the prisoner a full discharge from custody. The period of a
 624 parole granted by the Florida Parole Commission on Offender
 625 Review shall be in its discretion, but the parole period may
 626 ~~shall~~ not exceed the maximum term for which the prisoner was
 627 sentenced.

628 Section 25. Section 921.22, Florida Statutes, is amended to
 629 read:

630 921.22 Determination of exact period of imprisonment by
 631 Florida Parole Commission on Offender Review.—Upon the
 632 recommendation of the Department of Corrections, the Florida
 633 Parole Commission on Offender Review shall have the authority to
 634 determine the exact period of imprisonment to be served by
 635 defendants sentenced under ~~the provisions of~~ s. 921.18, but a
 636 prisoner may ~~shall~~ not be held in custody longer than the
 637 maximum sentence provided for the offense.

638 Section 26. Section 940.03, Florida Statutes, is amended to

591-01887-14

20147048__

639 read:

640 940.03 Application for executive clemency.—~~If a~~ ~~When any~~
 641 person intends to apply for remission of any fine or forfeiture
 642 or the commutation of any punishment, or for pardon or
 643 restoration of civil rights, he or she shall request an
 644 application form from the Florida Parole Commission on Offender
 645 Review in compliance with such rules regarding application for
 646 executive clemency as are adopted by the Governor with the
 647 approval of two members of the Cabinet. Such application may
 648 require the submission of a certified copy of the applicant's
 649 indictment or information, the judgment adjudicating the
 650 applicant to be guilty, and the sentence, if sentence has been
 651 imposed, and may also require the applicant to send a copy of
 652 the application to the judge and prosecuting attorney of the
 653 court in which the applicant was convicted, notifying them of
 654 the applicant's intent to apply for executive clemency. An
 655 application for executive clemency for a person who is sentenced
 656 to death must be filed within 1 year after the date the Supreme
 657 Court issues a mandate on a direct appeal or the United States
 658 Supreme Court denies a petition for certiorari, whichever is
 659 later.

660 Section 27. Section 940.05, Florida Statutes, is amended to
 661 read:

662 940.05 Restoration of civil rights.—Any person who has been
 663 convicted of a felony may be entitled to the restoration of all
 664 the rights of citizenship enjoyed by him or her before ~~prior to~~
 665 conviction if the person has:

666 (1) Received a full pardon from the Board of Executive
 667 Clemency;

591-01887-14

20147048__

668 (2) Served the maximum term of the sentence imposed upon
 669 him or her; or

670 (3) Been granted his or her final release by the Florida
 671 ~~Parole~~ Commission on Offender Review.

672 Section 28. Section 940.061, Florida Statutes, is amended
 673 to read:

674 940.061 Informing persons about executive clemency and
 675 restoration of civil rights.—The Department of Corrections shall
 676 inform and educate inmates and offenders on community
 677 supervision about the restoration of civil rights. Each month
 678 the Department of Corrections shall send to the Florida Parole
 679 Commission on Offender Review by electronic means a list of the
 680 names of inmates who have been released from incarceration and
 681 offenders who have been terminated from supervision who may be
 682 eligible for restoration of civil rights.

683 Section 29. Subsections (2) and (3) of section 941.23,
 684 Florida Statutes, are amended to read:

685 941.23 Application for issuance of requisition; by whom
 686 made; contents.—

687 (2) When the return to this state is required of a person
 688 who has been convicted of a crime in this state and has escaped
 689 from confinement or broken the terms of his or her bail,
 690 probation, or parole, the state attorney of the county in which
 691 the offense was committed, the Florida Parole Commission on
 692 Offender Review, the Department of Corrections, or the warden of
 693 the institution or sheriff of the county, from which escape was
 694 made, shall present to the Governor a written application for a
 695 requisition for the return of such person, in which application
 696 shall be stated the name of the person, the crime of which the

591-01887-14

20147048__

person was convicted, the circumstances of his or her escape from confinement or of the breach of the terms of his or her bail, probation, or parole, and the state in which the person is believed to be, including the location of the person therein at the time application is made.

(3) The application shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the indictment returned or information and affidavit filed or of the complaint made to the judge, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The prosecuting officer, Florida Parole Commission on Offender Review, Department of Corrections, warden, or sheriff may also attach such further affidavits and other documents in duplicate as he or she shall deem proper to be submitted with such application. One copy of the application, with the action of the Governor indicated by endorsement thereon, and one of the certified copies of the indictment, complaint, information, and affidavits or of the judgment of conviction or of the sentence shall be filed in the office of the Department of State to remain of record in that office. The other copies of all papers shall be forwarded with the Governor's requisition.

Section 30. Subsection (7) of section 943.0311, Florida Statutes, is amended to read:

943.0311 Chief of Domestic Security; duties of the department with respect to domestic security.—

(7) As used in this section, the term "state agency" includes the Agency for Health Care Administration, the Department of Agriculture and Consumer Services, the Department

591-01887-14

20147048__

of Business and Professional Regulation, the Department of Children and ~~Families~~ Family Services, the Department of Citrus, the Department of Economic Opportunity, the Department of Corrections, the Department of Education, the Department of Elderly Affairs, the Division of Emergency Management, the Department of Environmental Protection, the Department of Financial Services, the Department of Health, the Department of Highway Safety and Motor Vehicles, the Department of Juvenile Justice, the Department of Law Enforcement, the Department of Legal Affairs, the Department of Management Services, the Department of Military Affairs, the Department of Revenue, the Department of State, the Department of the Lottery, the Department of Transportation, the Department of Veterans' Affairs, the Fish and Wildlife Conservation Commission, the Florida Parole Commission on Offender Review, the State Board of Administration, and the Executive Office of the Governor.

Section 31. Subsection (1) of section 943.06, Florida Statutes, is amended to read:

943.06 Criminal and Juvenile Justice Information Systems Council.—There is created a Criminal and Juvenile Justice Information Systems Council within the department.

(1) The council shall be composed of 15 members, consisting of the Attorney General or a designated assistant; the executive director of the Department of Law Enforcement or a designated assistant; the secretary of the Department of Corrections or a designated assistant; the chair of the Florida Parole Commission on Offender Review or a designated assistant; the Secretary of Juvenile Justice or a designated assistant; the executive director of the Department of Highway Safety and Motor Vehicles

591-01887-14

20147048__

or a designated assistant; the Secretary of Children and Families ~~Family Services~~ or a designated assistant; the State Courts Administrator or a designated assistant; 1 public defender appointed by the Florida Public Defender Association, Inc.; 1 state attorney appointed by the Florida Prosecuting Attorneys Association, Inc.; and 5 members, to be appointed by the Governor, consisting of 2 sheriffs, 2 police chiefs, and 1 clerk of the circuit court.

Section 32. Subsection (5) of section 944.012, Florida Statutes, is amended to read:

944.012 Legislative intent.—The Legislature hereby finds and declares that:

(5) In order to make the correctional system an efficient and effective mechanism, the various agencies involved in the correctional process must coordinate their efforts. Where possible, interagency offices should be physically located within major institutions and should include representatives of the public employment service, the vocational rehabilitation programs of the Department of Education, and the Florida Parole Commission on Offender Review. Duplicative and unnecessary methods of evaluating offenders must be eliminated and areas of responsibility consolidated in order to more economically use ~~utilize~~ present scarce resources.

Section 33. Subsection (1) of section 944.02, Florida Statutes, is amended to read:

944.02 Definitions.—The following words and phrases used in this chapter shall, unless the context clearly indicates otherwise, have the following meanings:

(1) "Commission" means the Florida Parole Commission on

591-01887-14

20147048__

Offender Review.

Section 34. Paragraph (c) of subsection (2) of section 944.171, Florida Statutes, is amended to read:

944.171 Housing of inmates.—

(2) Notwithstanding s. 944.17, the department may enter into contracts with another state, a political subdivision of another state, or a correctional management services vendor in another state for the transfer and confinement in that state of inmates who have been committed to the custody of the department.

(c) The Florida ~~Parole~~ Commission on Offender Review shall conduct any parole hearing for an inmate confined under a contract pursuant to this section according to the rules of the commission.

Section 35. Paragraph (b) of subsection (2) of section 944.4731, Florida Statutes, is amended to read:

944.4731 Addiction-Recovery Supervision Program.—

(2)

(b) An offender released under addiction-recovery supervision shall be subject to specified terms and conditions, including payment of the costs of supervision under s. 948.09 and any other court-ordered payments, such as child support and restitution. If an offender has received a term of probation or community control to be served after release from incarceration, the period of probation or community control may not be substituted for addiction-recovery supervision and shall follow the term of addiction-recovery supervision. A panel of not fewer than two parole commissioners shall establish the terms and conditions of supervision, and the terms and conditions must be

591-01887-14

20147048

included in the supervision order. In setting the terms and conditions of supervision, the ~~parole~~ commission shall weigh heavily the program requirements, including, but not limited to, work at paid employment while participating in treatment and traveling restrictions. The commission shall also determine whether an offender violates the terms and conditions of supervision and whether a violation warrants revocation of addiction-recovery supervision pursuant to s. 947.141. The ~~parole~~ commission shall review the offender's record for the purpose of establishing the terms and conditions of supervision. The ~~parole~~ commission may impose any special conditions it considers warranted from its review of the record. The length of supervision may not exceed the maximum penalty imposed by the court.

Section 36. Paragraph (b) of subsection (1) and paragraph (b) of subsection (6) of section 945.091, Florida Statutes, are amended to read:

945.091 Extension of the limits of confinement; restitution by employed inmates.—

(1) The department may adopt rules permitting the extension of the limits of the place of confinement of an inmate as to whom there is reasonable cause to believe that the inmate will honor his or her trust by authorizing the inmate, under prescribed conditions and following investigation and approval by the secretary, or the secretary's designee, who shall maintain a written record of such action, to leave the confines of that place unaccompanied by a custodial agent for a prescribed period of time to:

(b) Work at paid employment, participate in an education or

591-01887-14

20147048

a training program, or voluntarily serve a public or nonprofit agency or faith-based service group in the community, while continuing as an inmate of the institution or facility in which the inmate is confined, except during the hours of his or her employment, education, training, or service and traveling thereto and therefrom. An inmate may travel to and from his or her place of employment, education, or training only by means of walking, bicycling, or using public transportation or transportation that is provided by a family member or employer. Contingent upon specific appropriations, the department may transport an inmate in a state-owned vehicle if the inmate is unable to obtain other means of travel to his or her place of employment, education, or training.

1. An inmate may participate in paid employment only during the last 36 months of his or her confinement, unless sooner requested by the Florida Parole Commission on Offender Review or the Control Release Authority.

2. While working at paid employment and residing in the facility, an inmate may apply for placement at a contracted substance abuse transition housing program. The transition assistance specialist shall inform the inmate of program availability and assess the inmate's need and suitability for transition housing assistance. If an inmate is approved for placement, the specialist shall assist the inmate. If an inmate requests and is approved for placement in a contracted faith-based substance abuse transition housing program, the specialist must consult with the chaplain before ~~prior to~~ such placement. The department shall ensure that an inmate's faith orientation, or lack thereof, will not be considered in determining admission

591-01887-14

20147048__

871 to a faith-based program and that the program does not attempt
872 to convert an inmate toward a particular faith or religious
873 preference.

874 (6)

875 (b) An offender who is required to provide restitution or
876 reparation may petition the circuit court to amend the amount of
877 restitution or reparation required or to revise the schedule of
878 repayment established by the department or the Florida Parole
879 Commission on Offender Review.

880 Section 37. Paragraph (d) of subsection (1), paragraphs (a)
881 and (b) of subsection (2), and subsection (5) of section 945.10,
882 Florida Statutes, are amended to read:

883 945.10 Confidential information.—

884 (1) Except as otherwise provided by law or in this section,
885 the following records and information held by the Department of
886 Corrections are confidential and exempt from the provisions of
887 s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

888 (d) Florida Parole Commission on Offender Review records
889 which are confidential or exempt from public disclosure by law.

890 (2) The records and information specified in paragraphs
891 (1)(a)-(h) may be released as follows unless expressly
892 prohibited by federal law:

893 (a) Information specified in paragraphs (1)(b), (d), and
894 (f) to the Office of the Governor, the Legislature, the Florida
895 Parole Commission on Offender Review, the Department of Children
896 and Families Family Services, a private correctional facility or
897 program that operates under a contract, the Department of Legal
898 Affairs, a state attorney, the court, or a law enforcement
899 agency. A request for records or information pursuant to this

591-01887-14

20147048__

900 paragraph need not be in writing.

901 (b) Information specified in paragraphs (1)(c), (e), and
902 (h) to the Office of the Governor, the Legislature, the Florida
903 Parole Commission on Offender Review, the Department of Children
904 and Families Family Services, a private correctional facility or
905 program that operates under contract, the Department of Legal
906 Affairs, a state attorney, the court, or a law enforcement
907 agency. A request for records or information pursuant to this
908 paragraph must be in writing and a statement provided
909 demonstrating a need for the records or information.

910
911 Records and information released under this subsection remain
912 confidential and exempt from the provisions of s. 119.07(1) and
913 s. 24(a), Art. I of the State Constitution when held by the
914 receiving person or entity.

915 (5) The Department of Corrections and the Florida Parole
916 Commission on Offender Review shall mutually cooperate with
917 respect to maintaining the confidentiality of records that are
918 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I
919 of the State Constitution.

920 Section 38. Subsection (2) of section 945.47, Florida
921 Statutes, is amended to read:

922 945.47 Discharge of inmate from mental health treatment.—

923 (2) At any time that an inmate who has received mental
924 health treatment while in the custody of the department becomes
925 eligible for release under supervision or upon end of sentence,
926 a record of the inmate's mental health treatment may be provided
927 to the Florida Parole Commission on Offender Review and to the
928 Department of Children and Families Family Services upon

591-01887-14 20147048__

request. The record shall include, at a minimum, a summary of the inmate's diagnosis, length of stay in treatment, clinical history, prognosis, prescribed medication, treatment plan, and recommendations for aftercare services.

Section 39. Subsection (6) of section 945.73, Florida Statutes, is amended to read:

945.73 Inmate training program operation.—

(6) The department shall work cooperatively with the Control Release Authority, the Florida ~~Parole~~ Commission on Offender Review, or such other authority as may exist or be established in the future which is empowered by law to effect the release of an inmate who has successfully completed the requirements established by ss. 945.71-945.74.

Section 40. Subsection (3) of section 947.005, Florida Statutes, is amended to read:

947.005 Definitions.—As used in this chapter, unless the context clearly indicates otherwise:

(3) "Commission" means the Florida ~~Parole~~ Commission on Offender Review.

Section 41. Section 947.01, Florida Statutes, is amended to read:

947.01 Florida ~~Parole~~ Commission on Offender Review; creation; number of members.—A Florida ~~Parole~~ Commission on Offender Review is created to consist of six members who are residents of the state. Effective July 1, 1996, the membership of the commission shall be three members.

Section 42. Section 947.02, Florida Statutes, is amended to read:

947.02 Florida ~~Parole~~ Commission on Offender Review;

591-01887-14 20147048__

members, appointment.—

(1) Except as provided in s. 947.021, the members of the Florida ~~Parole~~ Commission on Offender Review shall be appointed by the Governor and Cabinet from a list of eligible applicants submitted by a parole qualifications committee. The appointments of members of the commission shall be certified to the Senate by the Governor and Cabinet for confirmation, and the membership of the commission shall include representation from minority persons as defined in s. 288.703.

(2) A parole qualifications committee shall consist of five persons who are appointed by the Governor and Cabinet. One member shall be designated as chair by the Governor and Cabinet. The committee shall provide for statewide advertisement and the receiving of applications for any position or positions on the commission and shall devise a plan for the determination of the qualifications of the applicants by investigations and comprehensive evaluations, including, but not limited to, investigation and evaluation of the character, habits, and philosophy of each applicant. Each parole qualifications committee shall exist for 2 years. If additional vacancies on the commission occur during this 2-year period, the committee may advertise and accept additional applications; however, all previously submitted applications shall be considered along with the new applications according to the previously established plan for the evaluation of the qualifications of applicants.

(3) Within 90 days before an anticipated vacancy by expiration of term pursuant to s. 947.03 or upon any other vacancy, the Governor and Cabinet shall appoint a parole qualifications committee if one has not been appointed during

591-01887-14 20147048__

987 the previous 2 years. The committee shall consider applications
 988 for the commission seat, including the application of an
 989 incumbent commissioner if he or she applies, according to ~~the~~
 990 ~~provisions of~~ subsection (2). The committee shall submit a list
 991 of three eligible applicants, which may include the incumbent if
 992 the committee so decides, without recommendation, to the
 993 Governor and Cabinet for appointment to the commission. In the
 994 case of an unexpired term, the appointment must be for the
 995 remainder of the unexpired term and until a successor is
 996 appointed and qualified. If more than one seat is vacant, the
 997 committee shall submit a list of eligible applicants, without
 998 recommendation, containing a number of names equal to three
 999 times the number of vacant seats; however, the names submitted
 1000 may shall not be distinguished by seat, and each submitted
 1001 applicant shall be considered eligible for each vacancy.

1002 (4) Upon receiving a list of eligible persons from the
 1003 parole qualifications committee, the Governor and Cabinet may
 1004 reject the list. If the list is rejected, the committee shall
 1005 reinstitute the application and examination procedure according
 1006 to ~~the provisions of~~ subsection (2).

1007 (5) Section ~~The provisions of s.~~ 120.525 and chapters 119
 1008 and 286 apply to all activities and proceedings of a parole
 1009 qualifications committee.

1010 Section 43. Section 947.021, Florida Statutes, is amended
 1011 to read:

1012 947.021 Florida Parole Commission on Offender Review;
 1013 expedited appointments.—Whenever the Legislature decreases the
 1014 membership of the commission, all terms of office shall expire,
 1015 notwithstanding any law to the contrary. Under such

591-01887-14 20147048__

1016 circumstances, the Governor and Cabinet shall expedite the
 1017 appointment of commissioners. Notwithstanding the parole
 1018 qualifications committee procedure in s. 947.02, members shall
 1019 be directly appointed by the Governor and Cabinet. Members
 1020 appointed to the commission may be selected from incumbents.
 1021 Members shall be certified to the Senate by the Governor and
 1022 Cabinet for confirmation, and the membership of the commission
 1023 shall include representation from minority persons as defined in
 1024 s. 288.703.

1025 Section 44. Section 947.045, Florida Statutes, is amended
 1026 to read:

1027 947.045 Federal Grants Trust Fund.—The Federal Grants Trust
 1028 Fund is hereby created, to be administered by the Florida ~~Parole~~
 1029 Commission on Offender Review.

1030 (1) Funds to be credited to the trust fund shall consist of
 1031 receipts from federal grants and shall be used for the various
 1032 purposes for which the federal funds were intended.

1033 (2) Notwithstanding ~~the provisions of~~ s. 216.301 and
 1034 pursuant to s. 216.351, any balance in the trust fund at the end
 1035 of any fiscal year shall remain in the trust fund at the end of
 1036 the year and shall be available for carrying out the purposes of
 1037 the trust fund.

1038 Section 45. Subsection (3) of section 947.141, Florida
 1039 Statutes, is amended to read:

1040 947.141 Violations of conditional release, control release,
 1041 or conditional medical release or addiction-recovery
 1042 supervision.—

1043 (3) Within 45 days after notice to the Florida Parole
 1044 Commission on Offender Review of the arrest of a releasee

591-01887-14 20147048__

charged with a violation of the terms and conditions of conditional release, control release, conditional medical release, or addiction-recovery supervision, the releasee must be afforded a hearing conducted by a commissioner or a duly authorized representative thereof. If the releasee elects to proceed with a hearing, the releasee must be informed orally and in writing of the following:

- (a) The alleged violation with which the releasee is charged.
- (b) The releasee's right to be represented by counsel.
- (c) The releasee's right to be heard in person.
- (d) The releasee's right to secure, present, and compel the attendance of witnesses relevant to the proceeding.
- (e) The releasee's right to produce documents on the releasee's own behalf.
- (f) The releasee's right of access to all evidence used against the releasee and to confront and cross-examine adverse witnesses.
- (g) The releasee's right to waive the hearing.

Section 46. Subsection (1) of section 947.146, Florida Statutes, is amended to read:

947.146 Control Release Authority.—

(1) There is created a Control Release Authority which shall be composed of the members of the Florida Parole Commission on Offender Review and which shall have the same chair as the commission. The authority shall use ~~utilize~~ such commission staff as it determines is necessary to carry out its purposes.

Section 47. Subsection (3) of section 947.181, Florida

591-01887-14 20147048__

Statutes, is amended to read:

947.181 Fines, fees, restitution, or other costs ordered to be paid as conditions of parole.—

(3) If a defendant is paroled, any restitution ordered under s. 775.089 shall be a condition of such parole. The Florida Parole Commission on Offender Review may revoke parole if the defendant fails to comply with such order.

Section 48. Section 947.185, Florida Statutes, is amended to read:

947.185 Application for intellectual disability services as condition of parole.—The Florida Parole Commission on Offender Review may require as a condition of parole that any inmate who has been diagnosed as having an intellectual disability as defined in s. 393.063 shall, upon release, apply for services from the Agency for Persons with Disabilities.

Section 49. Subsection (2) of section 947.22, Florida Statutes, is amended to read:

947.22 Authority to arrest parole violators with or without warrant.—

(2) Any parole and probation officer, if ~~when~~ she or he has reasonable ground to believe that a parolee, control releasee, or conditional releasee has violated the terms and conditions of her or his parole, control release, or conditional release in a material respect, has the right to arrest the releasee or parolee without warrant and bring her or him forthwith before one or more commissioners or a duly authorized representative of the Florida Parole Commission on Offender Review or Control Release Authority; and proceedings shall thereupon be had as provided herein when a warrant has been issued by a member of

591-01887-14

20147048__

the commission or authority or a duly authorized representative of the commission or authority.

Section 50. Paragraph (a) of subsection (1) and subsections (3) and (6) of section 948.09, Florida Statutes, are amended to read:

948.09 Payment for cost of supervision and rehabilitation.—

(1)(a)1. Any person ordered by the court, the Department of Corrections, or the Florida Parole Commission on Offender Review to be placed on probation, drug offender probation, community control, parole, control release, provisional release supervision, addiction-recovery supervision, or conditional release supervision under chapter 944, chapter 945, chapter 947, this chapter 948, or chapter 958, or in a pretrial intervention program, must, as a condition of any placement, pay the department a total sum of money equal to the total month or portion of a month of supervision times the court-ordered amount, but not to exceed the actual per diem cost of the supervision. The department shall adopt rules by which an offender who pays in full and in advance of regular termination of supervision may receive a reduction in the amount due. The rules shall incorporate provisions by which the offender's ability to pay is linked to an established written payment plan. Funds collected from felony offenders may be used to offset costs of the Department of Corrections associated with community supervision programs, subject to appropriation by the Legislature.

2. In addition to any other contribution or surcharge imposed by this section, each felony offender assessed under this paragraph shall pay a \$2-per-month surcharge to the

591-01887-14

20147048__

department. The surcharge shall be deemed to be paid only after the full amount of any monthly payment required by the established written payment plan has been collected by the department. These funds shall be used by the department to pay for correctional probation officers' training and equipment, including radios, and firearms training, firearms, and attendant equipment necessary to train and equip officers who choose to carry a concealed firearm while on duty. ~~Nothing in This subparagraph does not shall be construed to~~ limit the department's authority to determine who shall be authorized to carry a concealed firearm while on duty, or ~~to~~ limit the right of a correctional probation officer to carry a personal firearm approved by the department.

(3) Any failure to pay contribution as required under this section may constitute a ground for the revocation of probation by the court, the revocation of parole or conditional release by the Florida Parole Commission on Offender Review, the revocation of control release by the Control Release Authority, or removal from the pretrial intervention program by the state attorney. The Department of Corrections may exempt a person from the payment of all or any part of the contribution if it finds any of the following factors to exist:

(a) The offender has diligently attempted, but has been unable, to obtain employment which provides him or her sufficient income to make such payments.

(b) The offender is a student in a school, college, university, or course of career training designed to fit the student for gainful employment. Certification of such student status shall be supplied to the Secretary of Corrections by the

591-01887-14 20147048__

educational institution in which the offender is enrolled.

(c) The offender has an employment handicap, as determined by a physical, psychological, or psychiatric examination acceptable to, or ordered by, the secretary.

(d) The offender's age prevents him or her from obtaining employment.

(e) The offender is responsible for the support of dependents, and the payment of such contribution constitutes an undue hardship on the offender.

(f) The offender has been transferred outside the state under an interstate compact adopted pursuant to chapter 949.

(g) There are other extenuating circumstances, as determined by the secretary.

(6) In addition to any other required contributions, the department, at its discretion, may require offenders under any form of supervision to submit to and pay for urinalysis testing to identify drug usage as part of the rehabilitation program. Any failure to make such payment, or participate, may be considered a ground for revocation by the court, the Florida Parole Commission on Offender Review, or the Control Release Authority, or for removal from the pretrial intervention program by the state attorney. The department may exempt a person from such payment if it determines that any of the factors specified in subsection (3) exist.

Section 51. Subsection (1) of section 948.10, Florida Statutes, is amended to read:

948.10 Community control programs.—

(1) The Department of Corrections shall develop and administer a community control program. This complementary

591-01887-14 20147048__

program shall be rigidly structured and designed to accommodate offenders who, in the absence of such a program, would have been incarcerated. The program shall focus on the provision of sanctions and consequences which are commensurate with the seriousness of the crime. The program shall offer the courts and the Florida Parole Commission on Offender Review an alternative, community-based method to punish an offender in lieu of incarceration if when the offender is a member of one of the following target groups:

(a) Probation violators charged with technical violations or misdemeanor violations.

(b) Parole violators charged with technical violations or misdemeanor violations.

(c) Individuals found guilty of felonies, who, due to their criminal backgrounds or the seriousness of the offenses, would not be placed on regular probation.

Section 52. Subsection (2) of section 949.05, Florida Statutes, is amended to read:

949.05 Constitutionality.—

(2) If the method of selecting the commission members as herein provided is found to be invalid by reason of the vesting of the appointing power in the Governor and ~~the~~ Cabinet, the members of the Florida Parole Commission on Offender Review herein provided for shall be appointed by the Governor.

Section 53. Subsection (1) of section 951.29, Florida Statutes, is amended to read:

951.29 Procedure for requesting restoration of civil rights of county prisoners convicted of felonies.—

(1) With respect to a person who has been convicted of a

591-01887-14 20147048__

1219 felony and is serving a sentence in a county detention facility,
1220 the administrator of the county detention facility shall provide
1221 to the prisoner, at least 2 weeks before discharge, if possible,
1222 an application form obtained from the Florida Parole Commission
1223 on Offender Review which the prisoner must complete in order to
1224 begin the process of having his or her civil rights restored.

1225 Section 54. Subsection (6) of section 957.06, Florida
1226 Statutes, is amended to read:

1227 957.06 Powers and duties not delegable to contractor.—A
1228 contract entered into under this chapter does not authorize,
1229 allow, or imply a delegation of authority to the contractor to:

1230 (6) Make recommendations to the Florida Parole Commission
1231 on Offender Review with respect to the denial or granting of
1232 parole, control release, conditional release, or conditional
1233 medical release. However, the contractor may submit written
1234 reports to the Florida Parole Commission on Offender Review and
1235 must respond to a written request by the Florida Parole
1236 Commission on Offender Review for information.

1237 Section 55. Paragraph (c) of subsection (8) of section
1238 958.045, Florida Statutes, is amended to read:

1239 958.045 Youthful offender basic training program.—

1240 (8)

1241 (c) The department shall work cooperatively with the
1242 Control Release Authority or the Florida Parole Commission on
1243 Offender Review to effect the release of an offender who has
1244 successfully completed the requirements of the basic training
1245 program.

1246 Section 56. Subsection (1) of section 960.001, Florida
1247 Statutes, is amended to read:

591-01887-14 20147048__

1248 960.001 Guidelines for fair treatment of victims and
1249 witnesses in the criminal justice and juvenile justice systems.—

1250 (1) The Department of Legal Affairs, the state attorneys,
1251 the Department of Corrections, the Department of Juvenile
1252 Justice, the Florida Parole Commission on Offender Review, the
1253 State Courts Administrator and circuit court administrators, the
1254 Department of Law Enforcement, and every sheriff's department,
1255 police department, or other law enforcement agency as defined in
1256 s. 943.10(4) shall develop and implement guidelines for the use
1257 of their respective agencies, which guidelines are consistent
1258 with the purposes of this act and s. 16(b), Art. I of the State
1259 Constitution and are designed to implement ~~the provisions of~~ s.
1260 16(b), Art. I of the State Constitution and to achieve the
1261 following objectives:

1262 (a) *Information concerning services available to victims of*
1263 *adult and juvenile crime.*—As provided in s. 27.0065, state
1264 attorneys and public defenders shall gather information
1265 regarding the following services in the geographic boundaries of
1266 their respective circuits and shall provide such information to
1267 each law enforcement agency with jurisdiction within such
1268 geographic boundaries. Law enforcement personnel shall ensure,
1269 through distribution of a victim's rights information card or
1270 brochure at the crime scene, during the criminal investigation,
1271 and in any other appropriate manner, that victims are given, as
1272 a matter of course at the earliest possible time, information
1273 about:

1274 1. The availability of crime victim compensation, if when
1275 applicable;

1276 2. Crisis intervention services, supportive or bereavement

591-01887-14 20147048__

1277 counseling, social service support referrals, and community-
1278 based victim treatment programs;

1279 3. The role of the victim in the criminal or juvenile
1280 justice process, including what the victim may expect from the
1281 system as well as what the system expects from the victim;

1282 4. The stages in the criminal or juvenile justice process
1283 which are of significance to the victim and the manner in which
1284 information about such stages can be obtained;

1285 5. The right of a victim, who is not incarcerated,
1286 including the victim's parent or guardian if the victim is a
1287 minor, the lawful representative of the victim or of the
1288 victim's parent or guardian if the victim is a minor, and the
1289 next of kin of a homicide victim, to be informed, to be present,
1290 and to be heard when relevant, at all crucial stages of a
1291 criminal or juvenile proceeding, to the extent that this right
1292 does not interfere with constitutional rights of the accused, as
1293 provided by s. 16(b), Art. I of the State Constitution;

1294 6. In the case of incarcerated victims, the right to be
1295 informed and to submit written statements at all crucial stages
1296 of the criminal proceedings, parole proceedings, or juvenile
1297 proceedings; and

1298 7. The right of a victim to a prompt and timely disposition
1299 of the case in order to minimize the period during which the
1300 victim must endure the responsibilities and stress involved to
1301 the extent that this right does not interfere with the
1302 constitutional rights of the accused.

1303 (b) *Information for purposes of notifying victim or*
1304 *appropriate next of kin of victim or other designated contact of*
1305 *victim.*—In the case of a homicide, pursuant to chapter 782; or a

591-01887-14 20147048__

1306 sexual offense, pursuant to chapter 794; or an attempted murder
1307 or sexual offense, pursuant to chapter 777; or stalking,
1308 pursuant to s. 784.048; or domestic violence, pursuant to s.
1309 25.385:

1310 1. The arresting law enforcement officer or personnel of an
1311 organization that provides assistance to a victim or to the
1312 appropriate next of kin of the victim or other designated
1313 contact must request that the victim or appropriate next of kin
1314 of the victim or other designated contact complete a victim
1315 notification card. However, the victim or appropriate next of
1316 kin of the victim or other designated contact may choose not to
1317 complete the victim notification card.

1318 2. Unless the victim or the appropriate next of kin of the
1319 victim or other designated contact waives the option to complete
1320 the victim notification card, a copy of the victim notification
1321 card must be filed with the incident report or warrant in the
1322 sheriff's office of the jurisdiction in which the incident
1323 report or warrant originated. The notification card shall, at a
1324 minimum, consist of:

1325 a. The name, address, and phone number of the victim; or

1326 b. The name, address, and phone number of the appropriate
1327 next of kin of the victim; or

1328 c. The name, address, and telephone ~~phone~~ number of a
1329 designated contact other than the victim or appropriate next of
1330 kin of the victim; and

1331 d. Any relevant identification or case numbers assigned to
1332 the case.

1333 3. The chief administrator, or a person designated by the
1334 chief administrator, of a county jail, municipal jail, juvenile

591-01887-14 20147048__
 1335 detention facility, or residential commitment facility shall
 1336 make a reasonable attempt to notify the alleged victim or
 1337 appropriate next of kin of the alleged victim or other
 1338 designated contact within 4 hours following the release of the
 1339 defendant on bail or, in the case of a juvenile offender, upon
 1340 the release from residential detention or commitment. If the
 1341 chief administrator, or designee, is unable to contact the
 1342 alleged victim or appropriate next of kin of the alleged victim
 1343 or other designated contact by telephone, the chief
 1344 administrator, or designee, must send to the alleged victim or
 1345 appropriate next of kin of the alleged victim or other
 1346 designated contact a written notification of the defendant's
 1347 release.

1348 4. Unless otherwise requested by the victim or the
 1349 appropriate next of kin of the victim or other designated
 1350 contact, the information contained on the victim notification
 1351 card must be sent by the chief administrator, or designee, of
 1352 the appropriate facility to the subsequent correctional or
 1353 residential commitment facility following the sentencing and
 1354 incarceration of the defendant, and unless otherwise requested
 1355 by the victim or the appropriate next of kin of the victim or
 1356 other designated contact, he or she must be notified of the
 1357 release of the defendant from incarceration as provided by law.

1358 5. If the defendant was arrested pursuant to a warrant
 1359 issued or taken into custody pursuant to s. 985.101 in a
 1360 jurisdiction other than the jurisdiction in which the defendant
 1361 is being released, and the alleged victim or appropriate next of
 1362 kin of the alleged victim or other designated contact does not
 1363 waive the option for notification of release, the chief

591-01887-14 20147048__
 1364 correctional officer or chief administrator of the facility
 1365 releasing the defendant shall make a reasonable attempt to
 1366 immediately notify the chief correctional officer of the
 1367 jurisdiction in which the warrant was issued or the juvenile was
 1368 taken into custody pursuant to s. 985.101, and the chief
 1369 correctional officer of that jurisdiction shall make a
 1370 reasonable attempt to notify the alleged victim or appropriate
 1371 next of kin of the alleged victim or other designated contact,
 1372 as provided in this paragraph, that the defendant has been or
 1373 will be released.

1374 (c) *Information concerning protection available to victim*
 1375 *or witness.*—A victim or witness shall be furnished, as a matter
 1376 of course, with information on steps that are available to law
 1377 enforcement officers and state attorneys to protect victims and
 1378 witnesses from intimidation. Victims of domestic violence shall
 1379 also be given information about the address confidentiality
 1380 program provided under s. 741.403.

1381 (d) *Notification of scheduling changes.*—Each victim or
 1382 witness who has been scheduled to attend a criminal or juvenile
 1383 justice proceeding shall be notified as soon as possible by the
 1384 agency scheduling his or her appearance of any change in
 1385 scheduling which will affect his or her appearance.

1386 (e) *Advance notification to victim or relative of victim*
 1387 *concerning judicial proceedings; right to be present.*—Any
 1388 victim, parent, guardian, or lawful representative of a minor
 1389 who is a victim, or relative of a homicide victim shall receive
 1390 from the appropriate agency, at the address found in the police
 1391 report or the victim notification card if such has been provided
 1392 to the agency, prompt advance notification, unless the agency

591-01887-14

20147048__

1393 itself does not have advance notification, of judicial and
 1394 postjudicial proceedings relating to his or her case, including
 1395 all proceedings or hearings relating to:

- 1396 1. The arrest of an accused;
- 1397 2. The release of the accused pending judicial proceedings
 1398 or any modification of release conditions; and
- 1399 3. Proceedings in the prosecution or petition for
 1400 delinquency of the accused, including the filing of the
 1401 accusatory instrument, the arraignment, disposition of the
 1402 accusatory instrument, trial or adjudicatory hearing, sentencing
 1403 or disposition hearing, appellate review, subsequent
 1404 modification of sentence, collateral attack of a judgment, and,
 1405 when a term of imprisonment, detention, or residential
 1406 commitment is imposed, the release of the defendant or juvenile
 1407 offender from such imprisonment, detention, or residential
 1408 commitment by expiration of sentence or parole and any meeting
 1409 held to consider such release.

1410
 1411 A victim, a victim's parent or guardian if the victim is a
 1412 minor, a lawful representative of the victim or of the victim's
 1413 parent or guardian if the victim is a minor, or a victim's next
 1414 of kin may not be excluded from any portion of any hearing,
 1415 trial, or proceeding pertaining to the offense based solely on
 1416 the fact that such person is subpoenaed to testify, unless, upon
 1417 motion, the court determines such person's presence to be
 1418 prejudicial. The appropriate agency with respect to notification
 1419 under subparagraph 1. is the arresting law enforcement agency,
 1420 and the appropriate agency with respect to notification under
 1421 subparagraphs 2. and 3. is the Attorney General or state

591-01887-14

20147048__

1422 attorney, unless the notification relates to a hearing
 1423 concerning parole, in which case the appropriate agency is the
 1424 Florida Parole Commission on Offender Review. The Department of
 1425 Corrections, the Department of Juvenile Justice, or the sheriff
 1426 is the appropriate agency with respect to release by expiration
 1427 of sentence or any other release program provided by law. A ~~Any~~
 1428 victim may waive notification at any time, and such waiver shall
 1429 be noted in the agency's files.

1430 (f) *Information concerning release from incarceration from*
 1431 *a county jail, municipal jail, juvenile detention facility, or*
 1432 *residential commitment facility.*—The chief administrator, or a
 1433 person designated by the chief administrator, of a county jail,
 1434 municipal jail, juvenile detention facility, or residential
 1435 commitment facility shall, upon the request of the victim or the
 1436 appropriate next of kin of a victim or other designated contact
 1437 of the victim of any of the crimes specified in paragraph (b),
 1438 make a reasonable attempt to notify the victim or appropriate
 1439 next of kin of the victim or other designated contact before
 1440 ~~prior to~~ the defendant's or offender's release from
 1441 incarceration, detention, or residential commitment if the
 1442 victim notification card has been provided pursuant to paragraph
 1443 (b). If prior notification is not successful, a reasonable
 1444 attempt must be made to notify the victim or appropriate next of
 1445 kin of the victim or other designated contact within 4 hours
 1446 following the release of the defendant or offender from
 1447 incarceration, detention, or residential commitment. If the
 1448 defendant is released following sentencing, disposition, or
 1449 furlough, the chief administrator or designee shall make a
 1450 reasonable attempt to notify the victim or the appropriate next

591-01887-14 20147048__

of kin of the victim or other designated contact within 4 hours following the release of the defendant. If the chief administrator or designee is unable to contact the victim or appropriate next of kin of the victim or other designated contact by telephone, the chief administrator or designee must send to the victim or appropriate next of kin of the victim or other designated contact a written notification of the defendant's or offender's release.

(g) *Consultation with victim or guardian or family of victim.*—

1. In addition to being notified of ~~the provisions of~~ s. 921.143, the victim of a felony involving physical or emotional injury or trauma or, in a case in which the victim is a minor child or in a homicide, the guardian or family of the victim shall be consulted by the state attorney in order to obtain the views of the victim or family about the disposition of any criminal or juvenile case brought as a result of such crime, including the views of the victim or family about:

- a. The release of the accused pending judicial proceedings;
- b. Plea agreements;
- c. Participation in pretrial diversion programs; and
- d. Sentencing of the accused.

2. Upon request, the state attorney shall permit the victim, the victim's parent or guardian if the victim is a minor, the lawful representative of the victim or of the victim's parent or guardian if the victim is a minor, or the victim's next of kin in the case of a homicide to review a copy of the presentence investigation report before ~~prior to~~ the sentencing hearing if one was completed. Any confidential

591-01887-14 20147048__

information that pertains to medical history, mental health, or substance abuse and any information that pertains to any other victim shall be redacted from the copy of the report. Any person who reviews the report pursuant to this paragraph must maintain the confidentiality of the report and may ~~shall~~ not disclose its contents to any person except statements made to the state attorney or the court.

3. If ~~When~~ an inmate has been approved for community work release, the Department of Corrections shall, upon request and as provided in s. 944.605, notify the victim, the victim's parent or guardian if the victim is a minor, the lawful representative of the victim or of the victim's parent or guardian if the victim is a minor, or the victim's next of kin if the victim is a homicide victim.

(h) *Return of property to victim.*—Law enforcement agencies and the state attorney shall promptly return a victim's property held for evidentiary purposes unless there is a compelling law enforcement reason for retaining it. The trial or juvenile court exercising jurisdiction over the criminal or juvenile proceeding may enter appropriate orders to implement ~~the provisions of~~ this subsection, including allowing photographs of the victim's property to be used as evidence at the criminal trial or the juvenile proceeding in place of the victim's property if ~~when~~ no substantial evidentiary issue related thereto is in dispute.

(i) *Notification to employer and explanation to creditors of victim or witness.*—A victim or witness who so requests shall be assisted by law enforcement agencies and the state attorney in informing his or her employer that the need for victim and witness cooperation in the prosecution of the case may

591-01887-14 20147048__

necessitate the absence of that victim or witness from work. A victim or witness who, as a direct result of a crime or of his or her cooperation with law enforcement agencies or a state attorney, is subjected to serious financial strain shall be assisted by such agencies and state attorney in explaining to the creditors of such victim or witness the reason for such serious financial strain.

(j) *Notification of right to request restitution.*—Law enforcement agencies and the state attorney shall inform the victim of the victim's right to request and receive restitution pursuant to s. 775.089 or s. 985.437, and of the victim's rights of enforcement under ss. 775.089(6) and 985.0301 in the event an offender does not comply with a restitution order. The state attorney shall seek the assistance of the victim in the documentation of the victim's losses for the purpose of requesting and receiving restitution. In addition, the state attorney shall inform the victim if and when restitution is ordered. If an order of restitution is converted to a civil lien or civil judgment against the defendant, the clerks shall make available at their office, as well as on their website, information provided by the Secretary of State, the court, or The Florida Bar on enforcing the civil lien or judgment.

(k) *Notification of right to submit impact statement.*—The state attorney shall inform the victim of the victim's right to submit an oral or written impact statement pursuant to s. 921.143 and shall assist in the preparation of such statement if necessary.

(l) *Local witness coordination services.*—The requirements for notification provided for in paragraphs (c), (d), and (i)

591-01887-14 20147048__

may be performed by the state attorney or public defender for their own witnesses.

(m) *Victim assistance education and training.*—Victim assistance education and training shall be offered to persons taking courses at law enforcement training facilities and to state attorneys and assistant state attorneys so that victims may be promptly, properly, and completely assisted.

(n) *General victim assistance.*—Victims and witnesses shall be provided with such other assistance, such as transportation, parking, separate pretrial waiting areas, and translator services in attending court, as is practicable.

(o) *Victim's rights information card or brochure.*—A victim of a crime shall be provided with a victim's rights information card or brochure containing essential information concerning the rights of a victim and services available to a victim as required by state law.

(p) *Information concerning escape from a state correctional institution, county jail, juvenile detention facility, or residential commitment facility.*—In any case where an offender escapes from a state correctional institution, private correctional facility, county jail, juvenile detention facility, or residential commitment facility, the institution of confinement shall immediately notify the state attorney of the jurisdiction where the criminal charge or petition for delinquency arose and the judge who imposed the sentence of incarceration. The state attorney shall thereupon make every effort to notify the victim, material witness, parents or legal guardian of a minor who is a victim or witness, or immediate relatives of a homicide victim of the escapee. The state

591-01887-14 20147048__

1567 attorney shall also notify the sheriff of the county where the
 1568 criminal charge or petition for delinquency arose. The sheriff
 1569 shall offer assistance upon request. When an escaped offender is
 1570 subsequently captured or is captured and returned to the
 1571 institution of confinement, the institution of confinement shall
 1572 again immediately notify the appropriate state attorney and
 1573 sentencing judge pursuant to this section.

1574 (q) *Presence of victim advocate during discovery*
 1575 *deposition; testimony of victim of a sexual offense.*—At the
 1576 request of the victim or the victim's parent, guardian, or
 1577 lawful representative, the victim advocate designated by state
 1578 attorney's office, sheriff's office, or municipal police
 1579 department, or one representative from a not-for-profit victim
 1580 services organization, including, but not limited to, rape
 1581 crisis centers, domestic violence advocacy groups, and alcohol
 1582 abuse or substance abuse groups shall be permitted to attend and
 1583 be present during any deposition of the victim. The victim of a
 1584 sexual offense shall be informed of the right to have the
 1585 courtroom cleared of certain persons as provided in s. 918.16
 1586 when the victim is testifying concerning that offense.

1587 (r) *Implementing crime prevention in order to protect the*
 1588 *safety of persons and property, as prescribed in the State*
 1589 *Comprehensive Plan.*—By preventing crimes that create victims or
 1590 further harm former victims, crime prevention efforts are an
 1591 essential part of providing effective service for victims and
 1592 witnesses. Therefore, the agencies identified in this subsection
 1593 may participate in and expend funds for crime prevention, public
 1594 awareness, public participation, and educational activities
 1595 directly relating to, and in furtherance of, existing public

591-01887-14 20147048__

1596 safety statutes. Furthermore, funds may not be expended for the
 1597 purpose of influencing public opinion on public policy issues
 1598 that have not been resolved by the Legislature or the
 1599 electorate.

1600 (s) *Attendance of victim at same school as defendant.*—If
 1601 ~~When~~ the victim of an offense committed by a juvenile is a
 1602 minor, the Department of Juvenile Justice shall request
 1603 information to determine if the victim, or any sibling of the
 1604 victim, attends or is eligible to attend the same school as the
 1605 offender. However, if the offender is subject to a presentence
 1606 investigation by the Department of Corrections, the Department
 1607 of Corrections shall make such request. If the victim or any
 1608 sibling of the victim attends or is eligible to attend the same
 1609 school as that of the offender, the appropriate agency shall
 1610 notify the victim's parent or legal guardian of the right to
 1611 attend the sentencing or disposition of the offender and request
 1612 that the offender be required to attend a different school.

1613 (t) *Use of a polygraph examination or other truth-telling*
 1614 *device with victim.*—A ~~No~~ law enforcement officer, prosecuting
 1615 attorney, or other government official may not ~~shall~~ ask or
 1616 require an adult, youth, or child victim of an alleged sexual
 1617 battery as defined in chapter 794 or other sexual offense to
 1618 submit to a polygraph examination or other truth-telling device
 1619 as a condition of proceeding with the investigation of such an
 1620 offense. The refusal of a victim to submit to such an
 1621 examination does ~~shall~~ not prevent the investigation, charging,
 1622 or prosecution of the offense.

1623 (u) *Presence of victim advocates during forensic medical*
 1624 *examination.*—At the request of the victim or the victim's

591-01887-14

20147048__

parent, guardian, or lawful representative, a victim advocate from a certified rape crisis center shall be permitted to attend any forensic medical examination.

Section 57. Subsection (3) of section 960.17, Florida Statutes, is amended to read:

960.17 Award constitutes debt owed to state.—

(3) The Florida Parole Commission on Offender Review shall make the payment of the debt to the state a condition of parole under chapter 947, unless the commission finds reasons to the contrary. If the commission does not order payment, or orders only partial payment, it shall state on the record the reasons therefor.

Section 58. Subsection (1) of section 985.04, Florida Statutes, is amended to read:

985.04 Oaths; records; confidential information.—

(1) Except as provided in subsections (2), (3), (6), and (7) and s. 943.053, all information obtained under this chapter in the discharge of official duty by any judge, any employee of the court, any authorized agent of the department, the Florida Parole Commission on Offender Review, the Department of Corrections, the juvenile justice circuit boards, any law enforcement agent, or any licensed professional or licensed community agency representative participating in the assessment or treatment of a juvenile is confidential and may be disclosed only to the authorized personnel of the court, the department and its designees, the Department of Corrections, the Florida Parole Commission on Offender Review, law enforcement agents, school superintendents and their designees, any licensed professional or licensed community agency representative

591-01887-14

20147048__

participating in the assessment or treatment of a juvenile, and others entitled under this chapter to receive that information, or upon order of the court. Within each county, the sheriff, the chiefs of police, the district school superintendent, and the department shall enter into an interagency agreement for the purpose of sharing information about juvenile offenders among all parties. The agreement must specify the conditions under which summary criminal history information is to be made available to appropriate school personnel, and the conditions under which school records are to be made available to appropriate department personnel. Such agreement shall require notification to any classroom teacher of assignment to the teacher's classroom of a juvenile who has been placed in a probation or commitment program for a felony offense. The agencies entering into such agreement must comply with s. 943.0525, and must maintain the confidentiality of information that is otherwise exempt from s. 119.07(1), as provided by law.

Section 59. Subsection (2) of section 985.045, Florida Statutes, is amended to read:

985.045 Court records.—

(2) The clerk shall keep all official records required by this section separate from other records of the circuit court, except those records pertaining to motor vehicle violations, which shall be forwarded to the Department of Highway Safety and Motor Vehicles. Except as provided in ss. 943.053 and 985.04(6)(b) and (7), official records required by this chapter are not open to inspection by the public, but may be inspected only upon order of the court by persons deemed by the court to have a proper interest therein, except that a child and the

591-01887-14

20147048

1683 parents, guardians, or legal custodians of the child and their
1684 attorneys, law enforcement agencies, the Department of Juvenile
1685 Justice and its designees, the Florida Parole Commission on
1686 Offender Review, the Department of Corrections, and the Justice
1687 Administrative Commission shall always have the right to inspect
1688 and copy any official record pertaining to the child. Public
1689 defender offices shall have access to official records of
1690 juveniles on whose behalf they are expected to appear in
1691 detention or other hearings before an appointment of
1692 representation. The court may permit authorized representatives
1693 of recognized organizations compiling statistics for proper
1694 purposes to inspect, and make abstracts from, official records
1695 under whatever conditions upon the use and disposition of such
1696 records the court may deem proper and may punish by contempt
1697 proceedings any violation of those conditions.

1698 Section 60. This act shall take effect July 1, 2014.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-3-14

Meeting Date

Topic SB 7048

Bill Number SB 7048
(if applicable)

Name Tena Pate

Amendment Barcode _____
(if applicable)

Job Title Chair - Florida Parole Commission

Address 4070 Esplanade Way
Street

Phone 850-921-2816

Tallahassee FL 32399
City State Zip

E-mail Tena Pate @ FPC. State. FL. US

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Parole Commission

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

CourtSmart Tag Report

Room: LL 37
Caption: Senate Criminal Justice

Case:
Judge:

Type:

Started: 3/3/2014 4:04:51 PM
Ends: 3/3/2014 5:50:39 PM Length: 01:45:49

4:04:56 PM Meeting to Order
4:06:22 PM Roll Call
4:06:53 PM Tab 1 - CS/SB 194 by Agriculture / Latvala—Spiny Lobster
4:07:41 PM Roll Call
4:10:08 PM Congress Woman Corrine Brown speaks on Stand Your Ground Law
4:26:31 PM Tab 4 - SB 328 by Joyner—Trafficking in Illegal Drugs
4:27:18 PM Amendment 915360
4:33:57 PM State Atty David Aronberg, Palm Beach County
4:45:09 PM Sherrif John Rutherford, Duval County
4:47:48 PM Brian Pitts, Representing Justice-2-Jesus
4:51:01 PM Nancy Daniels, Florida Public Defender Assoc. Inc.
4:55:46 PM Senator Joyner closes on the bill.
4:58:34 PM Roll Call
4:59:29 PM Tab 3 - CS/SB 326 by Judiciary / Thompson—Victims of Wrongful Incarceration
5:00:41 PM Brian Pitts, St. Petersburg, FL
5:05:53 PM Sen. Thompson closes on the bill.
5:06:31 PM Roll Call
5:07:17 PM Tab 2 - SB 296 by Brandes—Carrying a Concealed Weapon or a Concealed Firearm
5:08:13 PM Amendment 270946
5:20:07 PM Sherrif Rutherford, Duval County, FL
5:22:15 PM Marion Hammer, NRA, Unified Sportsmen of Florida
5:23:15 PM Roll Call
5:24:10 PM Tab 5 - SB 780 by Bradley—Controlled Substances
5:24:34 PM Amendment 711482
5:25:22 PM Roll Call
5:26:12 PM Tab 7 - SB 1060 by Evers—Code of Student Conduct
5:37:19 PM Marion Hammer, NRA, Unified Sportsmen of Florida
5:43:16 PM Roll Call
5:43:54 PM Tab 6 - SB 978 by Evers—Crime Stoppers Trust Fund
5:44:48 PM Roll Call
5:45:20 PM Tab 8 - SPB 7030 by Criminal Justice—Community Reentry Programs
5:45:45 PM Brian Pitts, St. Petersburg, FL Representing Justice-2-Jesus
5:48:58 PM Roll Call
5:49:24 PM Tab 9 - SPB 7048 by Criminal Justice—Renaming the Parole Commission
5:49:58 PM Roll Call
5:50:19 PM Meeting adjourned

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-3-14

Meeting Date

Topic Stand Your Ground Bill Number _____
Name Congresswoman Corrine Brown Amendment Barcode _____ (if applicable)
Job Title Member of the United States House of Representatives (if applicable)
Address 101 E. Union Street / 2111 Rayburn H.O.B. Phone _____
Jacksonville, FL / Washington, DC E-mail _____
City State Zip

Speaking: ☐ For ☐ Against ☒ Information

Representing THE People

Appearing at request of Chair: ☐ Yes ☐ No Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

NEWS RELEASE

March 2, 2014

From: Free Marissa Now Mobilization Campaign
FreeMarissaNow@gmail.com; www.freemarissanow.org

Contact:

Aleta Alston-Toure' -- 904-631-1674

Sumayya Fire -- 443-812-9503

Helen Gilbert -- 206-473-0630

Angela Corey Aims to Increase Marissa Alexander Sentence to 60 Years; Outrageous Targeting of Alexander Impacts All Women and Their Right to Self Defense

Demonstrating a stunning abuse of power, Florida State Prosecutor, Angela Corey, announced that she aims to increase the prison sentence for Marissa Alexander from 20 to 60 years in the upcoming July 28th trial. In 2012, Alexander -- an African American mother of three in Jacksonville, Florida -- was sentenced to a mandatory minimum of 20 years for firing a warning shot upwards into a wall to defend her life from her abusive estranged husband. She caused no injuries. Alexander successfully appealed the unjust trial and was granted a new trial. In November 2013, after serving nearly three years in prison, she was released on bond to home detention until her new trial.

Yet as a consequence of winning the appeal to hopefully secure a more fair trial, Alexander now faces the alarming prospect that the original devastating sentence could be *tripled* in the new trial. In the upcoming trial, Corey says she intends to seek a consecutive 20 year sentence for three counts of aggravated assault, instead of a concurrent 20 year sentence, tripling the mandatory minimum to 60 years.

Free Marissa Now member and victim's advocate, Sumayya Fire, stated, "Remember that this entire case boils down to a woman defending her life from her husband who attacked her, strangled her, threatened to have her killed, whose beatings have sent her to the hospital and likely caused her to have premature labor. A husband who confirmed in a deposition that he beat her, that he was in a rage when he attacked her, and that he has beaten other women with whom he was involved. Remember that when Marissa Alexander fired her warning shot to save her own life, she caused no injuries. Now she's facing the very real possibility of spending the rest of her life in prison for that act of self-defense. That should send a chill down the back of every person in this country who believes that women who are attacked have the right to defend themselves. Anyone who believes that domestic violence is unjust should be deeply shaken by Corey's abusive prosecution of Marissa Alexander and advocating for Alexander's freedom."

Sumayya Fire and other members of Free Marissa Now believe that Angela Corey has launched a campaign of escalating punishment of Marissa Alexander to shield herself from charges of mishandling trials and failing to secure guilty verdicts for the murders of black teens, Jordan Davis and Trayvon Martin, in addition to various lawsuits targeting her office for misconduct, and criticism for a pattern of maliciously over-charging defendants in order to bully

them into plea bargains. "Corey is on the defense and appears to be substituting vindictiveness for justice," said Free Marissa Now member, Helen Gilbert. "If anyone still thought Angela Corey was seeking justice rather than making a political power-play, this latest news must erase all doubt. Corey is using the full power of the system to serve her own political ambitions, at the sake of one woman's life and every woman's safety."

The national Free Marissa Now mobilization is resolved to fight for Marissa Alexander's freedom – and for the lives and freedom of all victims of domestic violence. The campaign is calling on the Florida legislature to repeal all mandatory minimum laws, and ensure that judges have discretion on whether sentences can be served consecutively or concurrently.

Jacksonville activist and Free Marissa Now leader Aleta Alston-Toure' adds, "We also call on all people who want to end domestic violence, who believe in the right to self-defense, and who call for an end to mass incarceration to support the Marissa Alexander Legal Defense Fund.

Alexander faces \$250,000 in legal fees and needs your help. A 60 year sentence for Marissa Alexander would not only be devastating for her, her children and family, and her community, it would be a decisive blow to the right to self defense for black women and all women. It is up to us to make sure victims of domestic violence are not forced to choose between saving their lives and spending the rest of their lives in prison. Enough is enough! Please join Free Marissa Now!"

Contributions to the Marissa Alexander Freedom Fund can be made at <http://igg.me/at/freemarissa2>. Free Marissa Now can be reached at www.freemarissanow.org, freemarissanow@gmail.com, and on facebook, twitter, and tumblr at "freemarissanow".

The Free Marissa Now Mobilization Campaign is an international grassroots campaign led by a core of organizers representing the African American/Black Women's Cultural Alliance, New Jim Crow Movement - Jacksonville, Radical Women, INCITE!, and the Pacific Northwest Alliance to Free Marissa Alexander.

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HOME/NEWS

Marissa Alexander's sentence could triple in 'warning-shot' case

Already a figure of sympathy over 20 years in first trial, she faces 60 years in retrial

By Larry Hannan Sat, Mar 1, 2014 @ 6:23 pm | updated Sun, Mar 2, 2014 @ 10:40 am



BOB MACK/The Times-Union
The second trial for Marissa Alexander (center) is scheduled to begin July 28.

A Jacksonville woman whose case generated outrage when she was sentenced to 20 years in prison may end up behind bars for 60 years for the same crime.

The Office of State Attorney Angela Corey will seek to put Marissa Alexander in prison for 60 years, essentially a life sentence, if it succeeds in convicting her for a second time for firing a shot in the direction of her estranged husband and two of his children. Her trial is scheduled to begin on July 28.

Alexander, 33, was previously convicted in 2012 of three counts of aggravated assault with a deadly weapon and was sentenced to 20 years in prison by Circuit Judge James Daniel under the state's 10-20-life law. Daniel actually imposed three separate 20-year sentences on Alexander but ordered that they be served concurrently, which meant Alexander would get out in 20 years.

The conviction was thrown out after the 1st District Court of Appeal in Tallahassee ruled that Daniel made a mistake in shifting the burden to Alexander to prove she was acting in self-defense. During jury instructions, Daniel said she must prove beyond a reasonable doubt that she was battered by her husband.

Sept. 26, 2013: Judge orders new trial for Marissa Alexander

Nov. 28, 2013: Marissa Alexander released from jail

Jan. 10, 2014: Marissa Alexander bond hearing (video)

Alexander's case drew national attention after she was denied immunity under the state's Stand Your Ground law, with critics saying the crime Alexander was convicted of didn't warrant 20 years behind bars. Supporters of Alexander blasted prosecutors Friday for seeking to triple her prison sentence.

"It's unimaginable that a woman acting in self-defense, who injured no one, can be given what amounts to a life sentence," said Free Marissa Now spokeswoman Helen Gilbert. "This must send chills down the spine of every woman and everyone who cares about women and every woman in an abusive relationship."

Seeking 60 years is an incredibly abusive and outrageous action by Corey, Gilbert said.

But Assistant State Attorney Richard Mantei, the lead prosecutor in the case, told the Times-Union his office was simply following the sentencing laws of the state of Florida.

The same appeals court that ordered Alexander's retrial separately ruled last year that when a defendant is convicted of multiple counts under 10-20-life that arose from the same crime, judges must make the sentences consecutive and are not allowed to impose them concurrently.

The law has not changed since Alexander was sentenced in 2012, but courts throughout the state have been struggling to interpret what the Legislature meant when it passed sentencing laws regarding 10-20-life.

The Alexander case inspired the so-called "warning-shot" bill that will be part of the Florida legislative session that begins Tuesday. The proposal, which is expected to pass, would

create an exception to the 10-20-life law and prohibit those who fire a warning shot from getting 20 years in prison.

DEBATE OVER COMBINED SENTENCES

Mantei said the appeals court ruling demanding consecutive 20-year sentences dictates that if Alexander is convicted of the same three counts, Daniel will be required to sentence her to 60 years in prison.

"Absent a plea agreement, if convicted as charged, the law of the State of Florida fixes the sentence," Mantei said. "At this time, Ms. Alexander has rejected all efforts by the State to resolve the case short of trial."

Attorney Bruce Zimet said it would be a miscarriage of justice to put his client in prison for the rest of her life.

He said he plans to get Alexander acquitted at trial by arguing that she was acting in self-defense. But he also intends to argue that the 10-20-life law is unconstitutional because it violates the 8th Amendment prohibition on cruel and unusual punishment, and will claim that Alexander cannot be sentenced to 60 years since she was only sentenced to 20 years at her first trial.

George "Bob" Dekle, a retired prosecutor who is now a law professor at the University of Florida, said if Alexander is convicted again the issue of whether she should get 60 years in prison could end up going to the Supreme Court.

If a sentence increases on a retrial, the law considers that vindictive unless there's a good reason for the increased sentence, Dekle said.

"Prosecutors will say it's not vindictive, it's what the case law now says you have to do," Dekle said. "It will be up to the judge to decide if he agrees with that."

If Daniel agrees with prosecutors and sentences Alexander to 60 years in prison, an appeal is almost certain. But if Daniel sentences her to 20 years the issue is probably done.

"I can tell you as a retired prosecutor you (the state) almost never win appeals on issues like this," Dekle said.

But Dekle cautioned that the issue is fluid, since multiple Florida appellate courts have ruled on this issue, and some of those rulings conflict with each other.

The Florida Supreme Court is expected to take up the issue of whether Florida law requires multiple 10-20-life sentences to be consecutive. While the 1st District has ruled that judges must make sentences consecutive, other appellate courts in Florida have said judges can impose sentences concurrently.

THE SELF-DEFENSE CLAIM

Alexander has claimed she fired a warning shot at her estranged husband, Rico Gray, and wasn't trying to hit Gray or his two children from a previous relationship. She has said the incident, which happened days after she'd given birth, began when Gray accused her of infidelity and questioned whether the newborn child was his.

Alexander told him to leave and locked herself in the bathroom until he broke through the door, grabbed her by the neck and shoved her to the floor.

She ran into the garage but found she couldn't leave because the garage door wouldn't open, according to the report.

She got a gun from the glove compartment of a car in the garage, went back into the house and when Gray saw her, she said he charged, saying he was going to kill her. Alexander fired the gun.

Alexander said it was a warning shot. Prosecutors dispute that and say the bullet hit the wall, not the ceiling, and it could have killed Gray or his children.

Mantei previously said that Gray's children have suffered because of the incident, and they are the real victims in this case.

Alexander cited the Stand Your Ground law to justify firing the shot. It allows the use of deadly force instead of retreating if the person is afraid for his or her life.

But that defense was rejected by Circuit Judge Elizabeth Senterfitt, who ruled that Alexander's choice to go back into the house to face her husband was not consistent with someone who was in "genuine fear of his or her life."

At one point, prosecutors offered Alexander a prison sentence of three years before her original trial, but she turned that down and chose to go to trial.

Larry Hannan: (904) 359-4470

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